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NATURAL PRINCIPLES

OF

RECTITUDE.

NATURAL PRINCIPLES

RECTITUDE

CONDUCT OF MAN

IN THE

STATE OF NATURE

MORAL PHILOSOPHY

THE FIRST PART OF THE PHILOSOPHY OF THE MIND

BY JOHN LOCKE

IN TWO VOLUMES. THE FIRST CONTAINING THE PHILOSOPHY OF THE MIND, AND THE SECOND THE PHILOSOPHY OF LANGUAGE.

THE SECOND PART OF THE PHILOSOPHY OF THE MIND

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NATURAL PRINCIPLES
OF
RECTITUDE.
FOR THE
CONDUCT OF MAN
IN ALL
STATES AND SITUATIONS OF LIFE;
DEMONSTRATED AND EXPLAINED
IN A
SYSTEMATIC TREATISE
ON
MORAL PHILOSOPHY.

COMPREHENDING

The Law of Nature—Ethics—Natural Jurisprudence—General
Œconomy—Politics—and the Law of Nations.

By JOHAN. DANIEL GROS, D.D.

Minister of the German Reformed Church in the City of New-York,
and Professor of Moral Philosophy, Geography, and
Chronology in Columbia College.

Omnes Indiæ opes superat mens conscia recti.

NEW-YORK:

PRINTED BY T. AND J. SWORDS,
Printers to the Faculty of Physic of Columbia College.

—1795.—

District of New-York, ss.

(L.S.) **B**E it remembered, that on the 27th day of August, in the nineteenth year of the independence of the United States of America, the Reverend JOHAN. DANIEL GROS, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

*“ Natural Principles of Rectitude, for the Conduct of Man in all
“ States and Situations of Life; demonstrated and explained in a
“ Systematic Treatise on Moral Philosophy: comprehending the Law
“ of Nature—Ethics—Natural Jurisprudence—General Economy—
“ Politics—and the Law of Nations. By Johan. Daniel Gros, D. D.
“ Minister of the German Reformed Church in the City of New-York;
“ and Professor of Moral Philosophy, Geography and Chronology in
“ Columbia College.”*

In conformity to the act of the Congress of the United States, entitled, “ An Act for the Encouragement of Learning, by
“ securing the Copies of Maps, Charts and Books to the Authors
“ and Proprietors of such Copies during the Times therein
“ mentioned.”

ROBERT TROUP, *Clerk of the District.*

TO THE

Regents of the University of the State of New-York;

AND

To the Trustees of Columbia College,

This Treatise is humbly dedicated,

By their devoted,

And most obedient humble servant,

The AUTHOR.

P R E F A C E.

THERE should indeed be weighty causes, which, in themselves, could justify a pretension to the attention of the public, on the part of a person who cannot but be very imperfect, with regard to style and diction, in the language of a country which has given him the title of an *adopted citizen*. New and important truths, or a new and happy arrangement of those which are established by the reasonings of philosophers and confirmed by the experience of the present as well as former ages, might perhaps compensate for a defect of elegance of style, so justly esteemed by the public, and so eagerly sought on the part of authors, who, treating on subjects interesting to all states and conditions of men, set up for public teachers. The author of this treatise dares not arrogate to himself merit on either of these points. He contents himself with furnishing the Students of Columbia College, his former and present disciples, with the general traits of a system which he has taught for a number of years in that seminary of learning, under the auspices and patronage of the worthy Trustees thereof. He wishes to submit to the
Regents

Regents of the University of the state of New-York, and, in them, to the fathers of our country, to whose care is intrusted the greatest object of public concern on the part of rulers of states and nations, the education of youth, the cultivation and advancement of the arts and sciences, both so beneficial and ornamental to civil society,—the method and subject-matter of his labours as Teacher, and afterwards Professor of Moral Philosophy in the first seat of learning in this state.

Very sensible of his inability to satisfy the great trust reposed in him to that degree of perfection so desirable in persons whose province it is to instil into the minds of our youth those principles of morality and rectitude which give them a true and happy direction in the pursuit of all public and private virtues, and by the indefatigable exercise of which they may become eminently useful to themselves, good members of society, and ornaments to their country,—he is confident his zeal to do all in his power for the attainment of these important ends has not been in vain; and as he is persuaded this will be kindly taken into consideration, so he trusts it will entitle him to that liberal and generous indulgence which laudable and arduous attempts have never yet failed to meet with from the free citizens of these happy states.—The highest of his ambition is, that an imputation of partiality may be removed from those generous patrons, who have honoured a German preacher with an appointment to the Professorship of
Moral

Moral Philosophy.—He has consulted, but not in a servile manner followed authors of fame and great authority—he has even taken the liberty to differ from them in many points of no small importance—he has endeavoured to establish the rights in persons on their proper foundation, the eternal principles of natural justice and equity—he has laboured to enter the sanctuary of social rights of every description, holding up the high destination and dignity of man, following him through a variety of natural and adventitious states—he asserts man's unalienable rights, under all manner of circumstances, in the various situations of private and public life—he has endeavoured to prove the great advantages of civil government, together with its necessity for the general happiness of mankind, pointing out the grand natural rights and important public duties of rulers on earth—he has explained and supported, by arguments founded in nature, the no less important rights of the ruled, and the absolute necessity of a faithful performance of all the public obligations which they owe to their country and their magistrates, in order to be good citizens and a happy people.

His aim has even been so extensive as to lay before the public, general, uniform and stable principles for guiding, in some measure, their sentiments with respect to universal benevolence, the necessity of a faithful attention to duty, and the high excellency of religion and piety. Insulated with regard to party or connections,

his whole attention has been fixed upon his subject, and the best possible manner to do it justice. Under these circumstances, he thought the liberty to take up the tone of a censor no crime, but looked upon candour as a right, as an indispensable duty in an author who has undertaken to teach the sacred principles of morality. * Following reason as his guide, he could not but see its amicable and inseparable connection with the sacred cause of religion. He thinks himself justifiable in laying down as an incontrovertible truth, that *reason is religion, because religion is the greatest perfection of reason, and gives it the happiest direction.* If this be so, which is evident from the nature of man and from his natural relation to the Deity and to the universal society of mankind, how shall we answer for the eagerness with which certain publications are cried up, and the great avidity with which they are bought—publications which surely are not the salutary effects of the *age*, but, on the contrary, the bitter and execrable fruits of the *rage* of reason, since their aim seems to be, were it possible, to sap the foundation of religion?

The impartial public will judge, whether these great objects are in some measure happily pursued—whether the well-meant labours of the author merit their attention and patronage—whether freedom of thought and impartiality of judgment have been the constant guide of his researches after truth—whether the cause of humanity or sinister motives have been his object—and, whether

whether the happiness of mankind has been the principal end of his labours.

Were it, that productions could gain credit from the characters who have given encouragement for their appearance before the public, the following treatise would not be destitute on this score. Forbearing to mention the names of some very respectable persons who will doubtless see this work, the author cannot possibly omit that of the late patriotic BARON DE STEUBEN, his great patron and friend. However, from the author's own consciousness of his insufficiency with respect to diction, the thought was laid aside; and, had it not been for the friendly importunities and pressing arguments of one* of my worthy colleagues, the Professors of Columbia College—had I not had sufficient reasons for depending on the assiduous support of my worthy pupil† in the theological and philosophical sciences, whose heart and talents bid fair soon to give him a place among those who will transmit the truths of sound morality to posterity not impaired, but improved, the publication of this treatise would probably have been left in the world of possibilities.

Happy

* Dr. SAMUEL L. MITCHILL, Professor of Chemistry in Columbia College.

† The Reverend PHILIP MILLEDOLER, Minister of the Gospel, alumnus of Columbia College, and a native of the city of New-York.

Happy would the author be, if he should find that his production meets the indulgence of the public, and is not thought unworthy the approbation of the good and upright amongst his fellow citizens; but still happier, if he finds his wishes accomplished—if he can confide, that it contributes to the advancement of the cause of virtue and religion—that it becomes a mean to inflame the American youth with a true love for their country, with a spirit of patriotism worthy their great rights and privileges, as the free-born sons of the free and independent states of North-America. May they know, esteem, and always make a virtuous use of those rights—May they be foremost amongst those who strictly adhere to all their private and public obligations—May they become good men, good citizens; the supporters of the government of laws, the defenders of their country; respecters of religion, and true lovers of God, their benign and universal father!

New-York, April 10, 1795.

N O T E.

A few errors have been observed, but as the author has been prevented by indisposition from attending to them, it is expected the reader will excuse their not being particularly noticed.

The term *social obligee* is made use of in a sense different from the signification it commonly bears in law. Let it be remembered, that thereby is understood that party of the social connection upon whom the social obligation is binding.

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INTRODUCTION.

INTRODUCTION.

MAN may be considered in a *variety of states*, which *modify* his moral character, and exhibit general rules for his conduct in the pursuit after happiness.

By a *state* of man, we understand an assemblage of certain determinations or affections inherent in, or referable to his nature, and to various relations in which he may stand with respect to other things.

There are some affections in man which flow from his essence, and therefore are always inherent; these constitute his *essential state*, which is *constant* and *unalienable*.

Scholion.—His dependence upon God, the *rationality of his nature*, &c.

There is a variety of other determinations which exhibit human nature under certain considerations, relations and circumstances; these, not being always inherent in man, constitute his *accidental states*, which are *mutable*.

Sch.—That man is a citizen, a stranger, a magistrate, a father, &c.

Some of these determinations are *in* man, others result from a *relation* to other objects; the former constitute the *internal*, the latter the *external state* of man.

Sch.—A man may be virtuous, though he be not rich; he may be admirably qualified for the service of his country, and

still be unnoticed, and vice versa. The noblest mind may be obscured under the garb of poverty—innocence may bear the lash of persecution. Vice and servility may for a while ride in triumph. Man, according to his internal state, may be happy; in respect of the external, he may appear to be miserable and wretched.

If man be considered under determinations which result from the natural constitution of his body and the natural frame of his mind, he is said to be considered in his *physical state*.

Sch.—A man may be strong and vigorous, brisk and gay, or weak, slow, fullen, &c.

Physical states are in many respects *mutable*; for we experience, that the constitution of the body and the disposition of the mind admit of great improvements, or, by mismanagement and by various accidents, may be rendered worse.

Sch.—To endeavour to know and do all that is conducive to the well-being of soul and body, ought to be the most principal concern of every man who feels a desire to be happy. To assist our fellow men in this great work is the province both of the *physician* and the *moralist*, with this difference, that the latter refers all that he finds in and about man to his free agency.

Man, represented as a free agent, is considered in his *moral state*.

The moral state of man is either *natural* and *constant*, or *accidental* and *mutable*.

Sch.—Man, as a rational creature, is responsible for his conduct to him that made him, where and whenever it is in his power to exercise free agency, and in that respect he is beyond all controul of human authority: but in the exercise of free agency, he may follow the dictates of reason, acquire habits of virtue, be sensible of his duty; or, on the contrary, may conduct himself in an irrational manner, become more or less careless and abandoned.

In

In respect of moral agency, we must well distinguish the different actions of which human nature is capable, the nature of moral actions, and their consistency with moral rectitude.

We *act*, if we are the cause of an effect, or of the contrary.

Actions, therefore, are distinguished into *commissive* or *omissive*.

Sch.—We may do our duty or neglect it.

Whether we act by commission or by omission, an effect will be produced in a two-fold way; either that we determine ourselves, or that we are determined.

When we determine ourselves, an action is said to be *spontaneous*; if we are determined, it is *non-spontaneous*.

Non-spontaneous actions are either *compulsory* or *natural*.

In compulsory actions we are determined by *external force*; natural actions result from the *constitution* of body and soul.

Sch.—Hunger, thirst, sleep, representations caused by objects, &c.

Natural actions, in themselves necessary, may be spontaneous in respect of time, place, and manner to do them.

Sch.—We may eat and drink, at an improper time and place, to excess, in a decent or indecent manner.

We *act freely*, when we act spontaneously upon previous consideration.

We *consider*, when, by an act of our understanding,
we

we enquire whether an action ought to be done or omitted.

Sch.—Irrational creatures act spontaneously, and often with an admirable sagacity; but, being destitute of understanding, they cannot act freely.

An action is said to be moral, when it is founded in a free action.

All free actions are moral, but not all moral actions free.

Sch.—Intoxication, freely indulged, with all its concomitants and consequences, is criminal, horrid and disgusting: if it be intruded by deception, or forced upon a fellow creature by compulsion, it moves our pity and meets compassion.

In consequence of our actions, things which were merely possible are brought into existence.

If it be our desire to enquire into the nature of moral actions, we must carefully attend to the ideas of possibility, of necessity and contingency, in order to have a distinct idea of liberty, upon which all that is moral or immoral in human conduct ultimately depends.

In general, that is said to be *possible*, which involves no contradiction.

What involves no contradiction in itself, is *absolutely possible*.

Sch.—The whole system of the heavens may be removed or changed; the poor oppressed and injured.

What involves no contradiction under certain circumstances, is *hypothetically possible*.

The circumstances under which a thing, possible in itself, may involve a contradiction, are *our power or duty*;

duty; therefore, hypothetical possibility is distinguished into *physical* and *moral*.

A thing is physically possible, if it does not involve a contradiction with our power.

Sch.—Upon the question, Whether the power of man, or of the whole human race, or of all created beings taken together, can remove heavenly bodies, or change their order? we cannot hesitate to declare such things utterly impossible.

Things are morally possible, if they involve no contradiction with a law, with our obligation and duty: they are said to be *right*, and the opposite to be *wrong*.

Sch.—It is not morally possible and right to oppress and to injure the poor; on the contrary, it is morally impossible and wrong.

We call things *necessary*, when the opposite thereof is impossible.

If the opposite of a thing be impossible in itself, it is *absolutely necessary*.

Sch.—Thus the existence of God, as the first cause of all things, is necessary; it is also necessary that the love of sin be an enmity against God.

If the opposite of a thing be impossible under circumstances, it is *hypothetically necessary*.

If the opposite of a thing be impossible in respect of our power, it is said to be *physically necessary*; as, meat and drink for the support of life.

If the opposite of a thing be inconsistent with a law, with our obligation and duty, it is *morally necessary*.

Sch.—Of this nature are all virtuous actions. The fear of God, the love of our neighbour, modesty, justice, sobriety, are not optional in this sense, that we may omit them, or do the contrary, consistently with the dignity of human nature and our dependence upon God.

The

The opposite of necessity is *contingency*.

A thing, therefore, is contingent, if the opposite thereof be possible, which may be either in itself or under circumstances.

Hence contingency is likewise distinguished into *absolute* and *hypothetical*, and the latter into *physical* and *moral*.

Sch. 1.—What is absolutely necessary, cannot be contingent under any circumstances whatever.

Sch. 2.—What is hypothetically necessary, may be absolutely contingent.

Sch. 3.—What is physically contingent, may be morally necessary.

Sch. 4.—The question, therefore, is, Whether actions are right or wrong? Not whether we can, but whether we ought to do, or to omit them.

If by a *right* we understand a *quality* in a person, we may define it to be a moral possibility of doing or omitting certain actions.

Sch.—To order the confinement of persons is the right of magistrates and officers of government, exclusively of citizens of any other description; it extends to disorderly persons, the violators, not the peaceable observers of the law.

As free agency ought to be conducted according to principles of right, we may infer, that the rights of men are the principal features in their moral state; for different persons enjoying the same rights, are in the same moral state; and, on the contrary, persons identically the same, enjoying different rights, must be considered in different moral states.

Sch. 1.—Men, by their nature equal, differ among one another; the one is a father, the other a son, a magistrate, &c.

Sch. 2.—Nay, an individual person may be father, son, magistrate, &c.

A person

A person vested with rights is stiled a *moral person*.

Many individuals vested with *identical* rights, constitute one moral person; as corporations, legislatures, &c.

By the term *nature*, which in different sciences is taken in various significations, we, in the sequel of this treatise, understand the essence of things, and call that *natural*, which flows immediately from that essence.

The nature of things is either considered in itself, or under circumstances.

Things flowing from nature considered in itself, are *absolutely natural*; those which flow from nature considered under circumstances, are *hypothetically natural*.

Sch. 1.—It is the natural absolute right of man not to be subject to human controul against his will, or independent of an act that is founded therein; likewise, to have his support from the produce of the earth—to enjoy the fruit of his own labour: *slavery*, therefore, is a state absolutely unnatural.

Sch. 2.—But under the hypothesis, that we have made choice of laws and men, or committed injury and damage, it is naturally right that we be controuled by those laws and men, or make reparation by our labour and property: subjection, servitude and compulsion are therefore hypothetically natural.

What is absolutely natural, is *necessary*; what is hypothetically such, is *contingent*.

Sch. 1.—Things of a physical nature, which are naturally necessary, *cannot*, and those of a moral nature *ought not* to be otherwise. Twice two necessarily make four. What is right to one man, is necessarily right to another who is in the same state and condition.

Sch. 2.—But suppose a continued addition of two, the sum naturally will increase to six, eight, &c. As naturally merit or demerit must make a difference between the characters of persons, in other respects of the same state and

and condition. The one has a just claim to our approbation, the other deserves disapprobation and censure.

Rights of man may be distinguished in respect of the *sources* from which they flow: those which flow from his nature, are his *natural rights*; those which flow from other things, are *adventitious*.

The natural rights of man are *absolute* or *hypothetical*.

All men, having the *same* nature, have the same absolute natural rights; and, when they are in the same circumstances, their hypothetical natural rights cannot differ.

Sch.—All men have the same absolute natural right to have their subsistence from the produce of the earth: but as it is impossible that all occupy the same spot, and subsistence cannot be had if one should destroy the work of another, it is natural that each be entitled to make use of the soil first occupied, and having bestowed his labour upon it, exclusively to enjoy the fruits thereof.

Men, therefore, are in the same natural state; for they are vested with the same natural rights.

Rights the same, are *equal*.

Men naturally, therefore, are in a *state of equality*.

Men, in a state of equality, are also said to be in a *state of natural liberty*.

If man, in his absolute natural state, be considered in himself, he is represented in a state of *solitude*; if respect is had to other men or creatures, he is considered in the *absolute social state*.

Sch. 1.—In this state, independent of his will, man is brought into life a fellow creature of the whole human race, a member of the universal family of the eternal father of beings.

Sch.

Sch. 2.—In treatises of morality little is said of this absolute social state, though it ought to be deemed a subject of the greatest importance and of unlimited extent: for what can more become the dignity of human nature, than that men, states, and nations spread over the face of the earth, should consider themselves and one another as children of the same gracious father, being not only the work of his hand, but also the objects of his benign love and continual care?

Sch. 3.—How far will this subject extend, if it be considered that even brutes and other things have an absolute social claim upon the human race?

Besides this *necessary society*, of which man cannot, and of the duties of which he ought not divest himself, there is a variety of others, where persons voluntarily unite for obtaining a *common* end.

Man, thus united with others, is in a *social state*—acquires adventitious social rights, and comes under social obligations.

Societies are as *various* as there may be ends for which persons unite.

If an union be formed for propagating the species, persons live in the *connubial* or *matrimonial state*.

Sch. 1.—If that union is, as it ought to be, for the end of educating children, the matrimonial state is *lawful*, and becomes *parental*.

Sch. 2.—In this state, parents, guardians, &c. are vested with parental rights; children and wards, &c. are bound by filial duties.

For the maintenance and education of children, *services* are required; persons uniting for that purpose, are in the *herile state*, where masters and servants have their respective rights, and come under reciprocal obligations.

The connubial, parental and herile states, taken together, or any two of them, constitute the *domestic state*.

From these societies, which are stiled the *less*, may be conceived an union of families associating for *mutual* convenience and security. This is a step to the greater societies, and may be called a *community*.

If a community increases to a considerable extent, the common concerns cannot well be managed by the personal deliberation of all the heads of families. Convenience, nay, necessity will of course dictate a delegation of will and power of the members to a certain person, or number of persons, for directing things to the common good of all.

That society, the members of which have transferred their will and power to a moral person for the attainment of the felicity of all, is called *civil*.

Sch.—Civil societies, in respect to one another, are stiled *states*.

Having given an idea of the most principal states in which man may be considered, and by which his natural rights and duties are variously modified, we now proceed to the definition of moral philosophy, and will consider the most general contents of that science.

MORAL PHILOSOPHY

IS that science which gives rules for the direction of the will of man in his moral state, or in his pursuit after happiness.

This science is generally divided into three parts:

The first contains the law of nature, that is, the natural and invariable principles of justice and equity, by which human conduct ought to be regulated.

The

The second shows how those principles are to be applied to the various states of man.

The third exhibits the application of these natural principles to the states of the nations of the earth.

The LAW of NATURE

IS that science which treats of the natural and invariable principles of justice and equity, by which human conduct ought to be regulated.

It contains five chapters:

The first treats of human actions in general, and particularly their morality or immorality.

The second, of moral obligation.

The third, of natural law.

The fourth, of the different degrees of morality or immorality.

The fifth, of moral imputation.

CHAPTER I.

Of the actions of man, and their morality or immorality.

MAN is a living creature, endowed with an organic body and a rational soul.

Sch. 1.—Living creatures, endowed with an organic body and a soul, are called *animals*.

Sch. 2.—Man differs from other animals principally in this, that his soul is *rational*; according to his animal nature, he has numberless determinations in common with brutes.

Soul

Soul is defined to be a power susceptible and capable of representations.

The different modes in which that power exerts itself are termed *faculties*.

The faculties of the human soul distinguish themselves into the *cognoscitive* and *appetitive*, both of which must be furthermore distinguished into the *inferior* and *superior*.

Sch.—The inferior we have in common with brutes; by the superior we are elevated to the rank of spirits.

The *inferior* cognoscitive faculty is that power of the human soul by which we have representations of *material* objects. It comprehends sensation, imagination and fancy.

Sensation is that faculty by which we have representations of material objects *present*.

Sch.—Present here signifies any object that strikes our sensory organs; thus a fixed star, and a distant sound which is heard, are present.

Imagination is that faculty by which we have representations of material objects *absent*, but which have once been *wholly* present.

Sch.—We see a friend, and remember the city, with other circumstances, where and under which we saw him.

Fancy is that faculty by which we form representations of such absent material objects as have once been present *in part*.

Sch.—We fancy a golden mountain, having had partial ideas of gold and of mountains. Hence the fictions of centaurs, nymphs, &c.

There are *laws* of sensation, imagination, and of fancy, by which may be determined what is necessary
in

in our representations, and how far they may be spontaneous, referable to our will, sinful or harmless.

Sch. 1.—The law of sensation: As soon as an object has struck our sensory organ, the representation, or species impressa, is necessary: sensible representations are therefore in our power and imputable, as far as it was in our power to prevent objects affecting our organs.

Sch. 2.—The law of imagination and fancy: If of two or more objects formerly perceived, associated with or bearing a similitude the one to the other, one occurs to the mind, the other or the rest will of necessity also recur: imaginations and phantoms, therefore, will be so far in our power and imputable, as it has been in our power to hinder the recurrence of ideas formerly perceived.

Sch. 3.—As far as actions of the mind flow from these laws, so far they must be construed to be natural actions of the human soul.

There are also *natural actions* of our body, which are so far necessary and non-spontaneous as they flow from its mechanism and the natural state of its fluids.

The perceptions of the mind hitherto explained, have their ultimate cause in sensation. Sensible ideas arise from mutations, which objects excite in the sensory organs. There is, therefore, the strictest *harmony* between the sensations of our mind and the mutations excited in our organs.

Sch. 1.—By this indissoluble union and harmony, soul and body constitute one *suppositum*, that is, a complete incommunicable substance.

Sch. 2.—If such a *suppositum* is intelligent, it constitutes a *physical person*.

All mutations flowing from the mechanism of the body and the natural frame of the mind, in certain respects, are hypothetically natural; for in divers persons they are different, nay, vary often in the same individual. This difference is most probably in consequence

sequence of their originating from different sources, some arising in the soul, others resulting from the body.

Sch. 1.—The mind is not always equally vigilant, the body may be deranged; the state of childhood differs from that of manhood, that of sickness from a state of health.

Sch. 2.—Whatever may be the origin or the qualifying causes of those different mutations, so much is certain, that they affect the whole man, and modify his physical state, that he becomes an individual person, *distinct* from all others in constitution, complexion, disposition, &c.

Sch. 3.—Natural mutations do not interest the moralist any farther than as they affect or are affected by spontaneity, inclination and will; as they co-operate or are contrary to the ultimate end and scope of the essence of man. His enquiry is, What influence things have upon human happiness, whether they be good, bad or indifferent?

Things are *consistent*, if their junction can be explained from a principle common to all.

As far as things are consistent, they are *perfect*.

Sch. 1.—Every thing has its essence if the various things inherent therein are consistent with the scope of that essence, there is a degree of perfection in it commensurate with that consistency.

Sch. 2.—A clock is so far perfect as the various springs and movements, and all parts, conspire to point out time in a precise manner; for this is the scope of its essence.

Men cannot act but certain mutations will be produced; they either *conspire* with the scope of their essence, or are *inconsistent* with it.

By *actions*, therefore, man will render his state perfect or imperfect.

What renders our state perfect is *good*, that which renders it imperfect is *bad*.

Sch.—What is not referable to our state is *indifferent*.

If our mind be actuated by representations of things in reference to our state, we feel *inclination* or *aversion* in conformity to such representations.

The

The *appetitive faculty* of the human soul in general may be defined that faculty by which we feel an appetite for things represented as good, and are averse to those which are represented as bad.

Sch.—Appetite and aversion caused by sensation, imagination or fancy, constitute the inferior appetitive faculty; but if they take rise in consequence of acts of our understanding, they must be considered as exertions of the superior; they are acts of the will.

Appetite and aversion follow certain *laws*; for they are indissolubly connected with the representations of good or evil; in our power, and imputable, if the representations be in our power or spontaneous.

Sch.—Appetites and aversions change with our representations; the boy ceases to dislike the school if he be made to see the evil of idleness.

The representations by sensation, imagination and fancy being for the most part *confused*, it follows, that appetite and aversion resulting from them, may be *misplaced* and improperly exercised.

Sensitive appetite and aversion have *degrees* in proportion as things are represented to be good or bad upon various grounds and considerations.

Sch.—In consequence of this, appetite and aversion may clash in respect of one and the same object, or the competition may lie between different objects. In each of these cases the event will be, that one or the other preponderates. Or they may respectively coincide, and cause the affections of the mind to become strong, turbulent and predominant.

Strong and predominant appetites or aversions are known by the name of *passions*.

Passions are therefore produced by strong and lively sensitive representations of good or evil.

Sch.

Sch.—They are distinguished into the *agreeable* and *disagreeable*, as they have either good or evil for their object.

All passions ultimately rest upon these four: *pleasure, desire, pain, and fear.*

Pleasure and desire are the *foundation* of all agreeable passions; the former arises from a strong representation of a good *in our possession*, the latter takes place when there is a great probability of obtaining a good *yet in expectation.*

Pain and fear, on the contrary, are the *sources* of all disagreeable passions; the former is caused by the representation that we labour under the pressure of a *present* evil, the latter arises from the thought that an evil *hangs over* our head.

Sch.—All other passions, distinguished in languages by different names, are not affections different in their nature, but only degrees either of pleasure or desire, of pain or fear; as, joy, anxiety, despair, terror, mortification, &c.

An habitual indulgence of sense and passion plunges us into *sensuality*, and causes *propensity*.

A kind of appetite and aversion, not founded upon representations of the mind, is called *instinct*; as, hunger, thirst, &c.

Experience evinces, that brutes, in conformity to their sensitive representations, also have their sensitive appetite and aversion, exercise indifference, are actuated by propensities and by instinct. It is likewise evident from common observation, that their appetites and aversions are generally more confined and infinitely better directed than those of man: their passions and propensities are but of the one or the other kind, and their vehemency keeps pace with an irritating cause, or corresponds with the destiny, defence, or support of
their

their existence. Every thing indicates that sense and instinct are given them for their guide; every thing manifests infinite power, wisdom and goodness in him who made them.

But it is not so with man; he is prone to sensuality; various passions obscure and disturb his mind, plunge him into error, sin and misery: sense, passions, instinct, therefore, cannot have been designed by the wise Creator to be the directors of the ways of man.

What great cause is there to bless God that he has given him another, a better guide; that he hath clothed human nature with a dignity superior to all creatures here on earth; that he has created his soul a spirit? Man is not to follow sense, but as it is directed by understanding and reason; these are to direct the steps of his feet, the desires of his heart—not to obey but to regulate sense and passion.

This leads us to treat of the superior faculties of the human soul. These, as has been said, are distinguished into the cognoscitive and appetitive.

By the *superior cognoscitive* faculty we are enabled to form representations of *immaterial* objects.

Sch. 1.—In order to have an idea of immaterial objects, we may only think of the *similitudes* and *differences* which we perceive when we consider several objects with any degree of attention.

Sch. 2.—These similitudes and differences are not in one or the other of those objects, but something between them, therefore something immaterial.

The superior cognoscitive faculty more particularly comprehends attention, reflection, understanding, reason, and judgment.

Sch.—The terms, *understanding* and *reason* are often used the one for the other, each expressing in general the superior cognoscitive faculty.

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We

We have not only a faculty to think, but it is in our power to dwell upon a thought or to dismiss it. The faculty of continuing our thoughts we call *attention*.

We may attend to thoughts, view them as it were on different sides, enter into their ingredient parts; that is, we may continue our attention. The faculty of continuing attention is *reflection*.

By attending and reflecting upon objects, we will discover similitudes and differences; that is, we will be enabled to form *distinct ideas* of things. The faculty of forming distinct ideas we call *understanding* in the restricted sense of the term.

If we form distinct ideas of things, we shall discover a connection of the one with the other. The faculty of seeing the connection of things is in particular called *reason*.

Sch. 1.—By *connection*, we understand that constitution of things, whereby the one cannot be without the other.

Sch. 2.—Thus causes and effects, means and ends are things connected.

We cannot see similitudes and differences, or connection in things, if we do not *compare* them. The faculty of comparing ideas is called *judgment*.

If our mind be actuated by representations of our understanding, we exercise the *superior appetitive* faculty; that is, our appetite and aversion will be *rational*.

Rational appetite and aversion constitute what, in the *philosophical sense* of the word, is termed *will*.

Sch.—Will comprehends both will and refusal.

The acts of the will are *volition* or *nolition*.

In

In the exercise of volition or nolition, we may distinguish the following *operations* of the mind:

1. A distinct idea of an object is formed.
2. Consequences must be attended to, which may flow from the proposed object, and shew its perfection or imperfection.
3. The object with those consequences is referred to our state, and a conclusion formed, whether the object is good or bad.

Hence it is evident, that the acts of will cannot be exercised without the exercise of attention, reflection, understanding, reason, and judgment.

Sch.—It ought to be observed, that, notwithstanding this, actions are referred to the will, and become moral, when we ought to have exercised those acts of the understanding; that is, when they were in our power, and we guilty of inattention.

Whenever we exercise acts of the will, there is something from which may be understood why we rather will than refuse.

That, which thus determines our will, is called *motive*.

As from *distinct* representations of good or evil may be understood why an intelligent being should chuse the one and refuse the other, it follows, that distinct representations afford the *matter* of motives, both for volition and nolition.

Hence it follows, that we cannot exercise any act of the will without motive.

Sch. 1.—Those who think otherwise, do not sufficiently distinguish sensitive appetite from that which is rational.

Sch. 2.—No wonder, that we often appear to will without exercising the superior faculty, as we often forego consulting

ing our understanding, and only follow our sensitive and vain inclinations.

Sch. 3.—Nay, actions which have been performed upon motives may become so *habitual*, that we repeat them without thinking of the motive which at first excited us to action.

We may represent good and evil as more or less desirable and excellent, or hurtful and pernicious. One motive is therefore more *weighty* and *forcible* than another; and acts of the will in consequence are differently affected, and admit of various degrees of resolution.

Sch. 1.—The more motives conspire, the stronger our resolution will be.

Sch. 2.—If motives lead to that which is flattering to our sensitive inclinations, our resolutions will not only be strong, but prompt, easy, and delightful.

Sch. 3.—But good and evil suggested by our senses and imagination do not always meet the approbation of our understanding; the consequence is, that the will comes often into *collision* with our sensitive appetite, and its resolutions become faint, or are entirely subverted.

Sch. 4.—In such cases, motives ought to prevail over flattering deceitful appearances; our will ought to maintain its superiority; man ought to make a sacrifice of short-lived sensual pleasures for lasting, nay, everlasting felicity.

Strong and persevering resolutions of the will are acts of virtue or vice. They bear the names of passions in a perfect analogy to those produced by strong and lively sensitive representations, but they are really different from them; a material distinction, therefore, *in our mind* is necessary, if we will not confound virtues with good dispositions, and place black and heinous vices upon a par with evil inclinations and propensities.

Sch.—As rejoicing in the Lord, hoping in God, fearing his name, are excellent virtues, so, on the contrary, there are

are not more pernicious vices than rejoicing in sin, despairing of God, blaspheming his name, &c.

By senses, passions, habits, customs and examples, many are tempted to judge that to be good which is bad, and that bad which really is good. Good and evil is therefore to be distinguished into real and apparent.

Apparent good is an evil represented as a good; and *apparent evil* is a real good under the false appearance of an evil.

Sch. 1.—In the judgment of an idle boy going to school is an evil, but play a desirable good.

Sch. 2.—It requires the greatest care and diligence to guard against false appearances.

There are frequent occurrences in life, when several goods offer themselves, which cannot be attained at the same time, but where in choosing the one, we must deprive ourselves of the other. In the same manner evils may threaten us, which are of that nature, that in endeavouring to avoid the one, we must meet the other.

All we can do in such cases is to make a true estimate of the degrees of good and of evil, in order to distinguish the greater from the less.

This leads to the idea of *relative good and evil*; where a less good chosen in preference to a greater, assumes the quality of an evil, and a less evil preferred to a greater has the effect of a good.

Sch.—Hence the rule, of two goods choose the greatest, and of two evils admit the least.

From the nature of our soul it may be proved, and by daily experience we are indubitably convinced, that
our

our will is imperfect, stands in need and is capable of improvement.

Our will becomes more perfect and determined the more we attain to a distinct knowledge of things, particularly in respect of the good and evil that may proceed from them. For the more solid our knowledge, the more powerful is the dominion of our will over the appearances of sense, and the allurements of passion.

Our will is not subject to coercion or compulsion, for it rests upon representations of our understanding, which no human power can controul.

Sch. 1.—Conviction and persuasion will lead the will.

Sch. 2.—By violent means the will may be affected; they may obtrude to the intellect a comparison between things to which it has been averse, and present painful experiences, and cause the former to appear the least of the two evils; then it is that those means assume a moral complexion, cease to be coercions, and become in a manner motives.

Sch. 3.—However that may be, no great dependence ought to be placed in means, which, for the most part only produce sensitive inclinations that last as long as fear and dread excite the mind, cause involuntary deceitful changes, and leave the hardened stubborn heart untouched.

Sch. 4.—Those who have the care of education, of families, &c. ought to consider that love begets love, that tenderness creates attachment. Government is easy and pleasant when we bear rule in the hearts of men.

Sch. 5.—Brutes, capable only of sensitive inclinations, may, and often must be directed by force.

Sch. 6.—If men act a brutal part, they have no cause to complain of severity and violence.

From what has been said, it clearly appears, that acts of will are spontaneous, consequently *acts* of choice.

The faculty to determine ourselves to action upon
previous

previous consideration, is called *liberty*; and actions thus done or omitted, are *free*.

In a free action there must be spontaneity in the agent, contingency or room for choice in respect of the action, and a possibility of our distinctly knowing its nature and effect before the commission or omission thereof.

Sch.—Actions, to which no intrinsic principle determines us, are *free from necessity*; not to be determined by the authority of another, is to act *free from subjection*; when no force compels us, we are said to be *free from coercion*.

Moral actions are not always free in themselves, but must ultimately depend upon or originate in free action.

Sch.—A drunkard, in a fit of intoxication, is not able to exercise his understanding; the folly, rudeness, &c. of his conduct, are not free, being necessary effects of a disordered brain; but they are moral, if his will was the cause of inebriation.

Moral actions, whether considered in themselves or under circumstances, have their *consequences*; these referred to the moral state of man will either consist or not consist with the scope of his essence, and consequently render them either good or bad.

If we attend to the consequences of moral actions, we consider them as *materially good or bad*.

Consequences flowing from actions considered in themselves cannot change; that is, an action, as such, produces always the same effect; in this case, actions materially good or evil are *necessarily such*.

Consequences, that flow from actions considered under circumstances, render them *contingently good or bad*; that is, their effects differ as the nature of those circumstances are different.

Sch.

Sch.—Confinement of an innocent, or of a wicked dangerous person, must be considered in a very different light.

Hence, actions and their consequences being things connected by nature, may, in that point of view, be said to be *naturally good* or *bad*.

Actions naturally good or bad may be known by reason and experience.

Sch.—The natural consequences are objects of experience; their dependence upon the nature of actions and of circumstances, comes under the cognizance of reason. He who knows the deleterious nature of poison, will certainly condemn the wickedness of a person taking or administering it for the horrid purpose of destroying life or health.

Material good or evil is *inseparable* from our actions, because effects are inseparably connected with their causes.

Hitherto we have confined ourselves to the consideration of what is called the *matter* of actions; but it is time we should now consider what it is that gives to moral action its peculiar *form*, and distinguishes it from all other actions. Here the enquiry is not so much whether an action has produced a certain effect, but whether that effect was intended by the agent.

Actions done with a good intention are said to be *formally good*; those proceeding from a contrary intention, are *formally bad*.

Actions may be formally good, though they be materially bad; and *vice versa*.

Sch.—For instance: a well intended though unlucky amputation, ending in the loss of life.

The consequences of moral actions, by which they are formally good or bad, constitute their *morality* or *immorality*.

Sch.

Sch.—If it be our part to determine what degree of morality or immorality be in a certain action, we have to attend to the consequences of the action, and see whether they be or be not intended. According to the intention of the agent we pronounce actions attended by good consequences *moral*, those attended by bad consequences we call *immoral*.

Sch. 2.—Thus we see, that the term *moral*, when applied to human conduct, is taken both in a general and in a restricted signification: according to the former, all intended actions are moral; in the restricted sense, *those only* which are done or omitted with a *good* intention.

Hence we conclude, that all *moral* actions are either moral or immoral; for they presuppose intention, and are attended by consequences.

Morality and *immorality*, flowing from the nature of actions, and the nature of circumstances, in reference to the nature of the intention by which they are done or omitted, are *intrinsic*; the consequence is, that they are *inseparable* from moral actions, and, as they are naturally connected, may be known by reason and experience.

Sch.—To stab an innocent man, with a malicious intention to destroy his life, cannot but be an action in the highest degree immoral, though it were sanctioned by the approbation of high authority.

Good or bad consequences, flowing from moral actions, may *depend* also *upon the will of another*; we may therefore conceive morality or immorality, which is *extrinsic*, not natural, but *positive*.

Sch. 1.—Extrinsic morality or immorality may depend upon customs, or upon particular injunctions or prohibitions.

Sch. 2.—Morality and immorality that are *merely* extrinsic, may be separated from actions; for customs may change, injunctions and prohibitions cease, &c. For instance, we may do work in a week day, which is improper or forbidden on the Sabbath.

Sch. 3.—As all morality or immorality has a necessary connection with the will and intention of the agent; it follows,

lows, that no action that is not spontaneous can be moral or immoral.

Sch. 4.—A part of a house broke down by a storm, or a person falling from a scaffold, causing the death of a man, are actions equally disastrous, and equally innocent, if the latter has not been guilty of neglect.

CHAPTER II.

Of Moral Obligation.

THERE are innumerable actions in *our power*, *formally* contingent, affording unlimited scope for choice, in respect of actions as well as mode, place, manner, and time for their performance: yet we find, that our mind does not remain in suspense, but resolves upon one individual action, mode, place, manner, and time, in preference to all others.

This particular resolution is found always to be in consequence of, and in conformity to motives; for it is the nature of motives to controul our spontaneity, giving the mind a particular impulse and direction, and thus causing a *moral necessity* for doing or omitting such particular actions rather than others.

Whenever we are thus actuated by motives, we are said to be under a moral obligation; so that *moral obligation* may be said to consist in a *connection of motives with our actions*.

Sch.—Writers, who contend that moral obligation is *only* constituted by the will of the superior, rejecting all other definitions thereof as vague and chimerical, seem to have abstracted their ideas from the effect of laws and governments in civil life, where all obligations ultimately derive their force from the will of a superior. Under the *supposition*, that all who claim the right of a superior, be lawfully

lawfully vested therewith, and that lawful authority be always justly exercised, their definition might be adopted with safety. But who can feel so great a degree of predilection, as to venture a truth of the greatest importance upon a supposition, the fallacy of which may be proved from the frequent records of history, from the imbecility of the human mind, and the imperfection of all human affairs. Here we have not to take things according to the notions and practices of men; we have not to copy the ideas of right and wrong from human laws and institutions; on the contrary, we ought to look for the eternal and unchangeable principles of justice and equity, which flow from nature, and which alone can be the infallible guide and foundation of civil law, and all that can be right and excellent in governments. How many monsters has the world produced who have usurped authority? How often do folly and caprice assume its sacred name and appearance? Suppose both superior and authority lawful, can the wisdom of men always warrant a wise, just and proper exercise of that authority? What therefore is moral *obligation*, that has no other foundation than the will of an human superior, but an expedient in most cases unsafe, and at best as fickle and unstable as the various sentiments and devices of men.

The definition, which we have laid down, is not liable to such exceptions, as it sufficiently guards against all that is unlawful in the exercise of authority and oppressive in obligation, and, on the contrary, enjoins, upon a foundation that cannot be shaken, a rational and sincere respect, deference and obedience to all lawful superiors in all that they justly require.

For a lawful superior on the one hand derives his authority from a just cause, and on the other, is under the most sacred obligation to exercise it in conformity to justice. But both cause and direction of just authority must have for their object the felicity of all who are under that authority. Public felicity is therefore the motive why authority should be lawfully exercised, and why the will of a superior thus exercising his authority ought to be respected and obeyed. Here then we find a connection of motives, and of consequence obligation.

All

All that can be said in respect of moral obligation, rests upon the consideration of the causes of that connection, upon the motives connected, and upon the quality of persons, actions and things to which it extends.

Connection is an effect that must have its originating cause or causes.

Obligation in this respect is either *natural* or *positive*, or *qualified*; as the connection of motives results either from the nature of actions and of circumstances, or from the will of another, or from both.

Sch.—That we ought not to commit murder is a qualified obligation, enjoined both by nature and by the sanction of civil laws.

Positive obligations are *divine* or *human*, as motives are connected either by the will of God or of man.

All *natural obligations* are *divine*; for nature, and all that flows from it, is by the will of God.

Sch. 1.—If we wish to satisfy natural obligation, we must look up to and be actuated by the will of God. For instance, we must study sobriety, not only from a consideration that it has the greatest influence on our happiness, by invigorating our health, preserving our life, and affording our soul that serenity of mind, that tranquillity and peace, which rise superior to all changes and vicissitudes of time and chance; but, we ought also to reflect, that this virtue is commanded by God, that a faithful performance of it is pleasing to him, that a contrary conduct is a grievous sin, and subjects us to his awful displeasure, &c.

Sch. 2.—Divine obligations may be merely *positive*; as, *circumcision* and other *ceremonial institutions* of the Old Testament.

If connection of motives ceases, we are *liberated from obligation*; if new motives be connected, *new obligations arise*.

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From positive obligations, whether divine or human, we may be liberated; for the connection of motives may cease. But this cannot be with respect to natural obligations, they are *unalterable* and lasting as nature itself.

Sch.—Qualified obligations consequently admit of liberation as far as they are positive.

Actions may rest upon many motives, and in this respect may be distinguished into *simple* and *compound*. A simple action rests upon one motive; a compound upon many.

A compound action may be considered as an *aggregate* of as many simple as there are motives.

Obligations therefore admit of *quantity*, which is to be estimated by the *nature* and *number* of motives.

Sch.—In respect of the nature of motives, it must be observed, that the intrinsic are always more important than the extrinsic.

Obligations consequently may be distinguished into *greater* and *less*.

When obligations come into *collision*, we must make an exception in favour of the greatest.

Such is the imbecility of the human mind, that persons may *conceive* a connection of motives where it is not, or where, if they were better informed, they would do the contrary. In this case motives are mistaken and wrong, and the conceited obligation *erroneous*.

Sch. 1.—Many of the persecutions in church and state have taken their rise and progress from erroneous obligations.

Sch. 2.—The error of such conceited obligations may be seen by others, but the person labouring under the mistake sincerely thinks he is in the right, and all wrong who are
of

of a contrary sentiment. Opposition commonly increases enthusiastic pride and obstinacy.

Sch. 3.—Persons of that class are rather objects of pity than ridicule or persecution.

Sch. 4.—If a remedy is to be applied, let it be conviction. Constraint is only allowable in *cases* where the effect has, in a direct manner, a fatal tendency to disturb the felicity of society; and even, in such cases, coercive measures should be used with all possible humanity, prudence and moderation, and *principally* levelled against the effect.

Sch. 5.—Upon the question, Whether it would not be better to make use of coercive measures, than to leave our fellow creature under an error that may be fatal to him and to others? we answer, that human authority is not competent to judge the consciences of men; that such an authority assumed may be abused to oppress a conscience that is right, and actuated by a just obligation. *To judge the consciences of men is the sole right of God.*

No rule for action that is contrary to natural obligation can be right; it must be false and erroneous.

Sch.—This proposition is very important, as it is an infallible *standard* for a wise and faithful discharge of legislative authority; where errors and defects, which human wisdom cannot always prevent, ought to be corrected and remedied as soon as experience brings them to light.

As men often substitute *habit, prejudice, custom, propensity* and *passion* for motives, there is no wonder that, in the most important occurrences of life, they loose sight of true obligation, and give way to error and fanaticism.

As motives presuppose distinct representation of good or evil, it follows, that no person can be put under moral obligation who cannot exercise understanding, reason, and judgment.

Actions which are free or moral, admit of motives, and therefore come under obligation.

Sch.

- Sch.* 1.—Hence it follows, that neither brutes, nor children before their years of discretion, can be put under obligation.
- Sch.* 2.—In directing brutes, we must work upon their sensitive appetite and aversion, and connect consequences with their actions, whereby they obtain a sense of good or evil in them, and are prompted to feel inclinations in conformity to that sense.
- Sch.* 3.—Humanity requires, that means for directing the actions of brutes be as gentle as possible.
- Sch.* 4.—Great prudence and care is requisite in the management of children; like brutes they may be driven into a compliance with our wishes, but, unlike to them, by too great severity, and too frequent violent coercions, they may be hardened, rendered brutal and obstinate. Never give place to anger, at least never show it in chastisements, for it has a monstrous form, and is alone sufficient to defeat the end for which this part of discipline is made our necessary duty. The power of first impressions and the force of examples have great influence upon the tender mind; they may effect great changes and fixed habits in the inclinations of youth, both for the better and for the worse.
- Sch.* 5.—We have gained a great deal if we have gained their affection; the young mind should therefore be cultivated at a very early date; we ought to work upon their superior faculties by reproof, and advice holding forth motives; for children generally have sufficient discretion in all things necessary for or suitable to their state and condition, and by proper management may be caused to exercise it in other things sooner than they would be able to do if left to themselves, or consigned to the contagion of vulgar company and bad examples.

No action which is not contingent in itself, and in the power of the agent, can admit of moral obligation, *impossibilia nulla est obligatio.*

Besides spontaneity in the agent and contingency in respect of action, it is particularly necessary for rendering actions truly obligatory, that they *have a good tendency*; for that obligation alone is true and real, which enjoins

enjoins what is good and prohibits all that is evil; because for that end only a connection of motives can take place.

Sch. 1.—Obligations that enjoin to do what is bad, or prohibit what is good, are absurd and void.

Sch. 2.—Obligations contrary to our private good, are still binding, if they have for their object public felicity; in this case there would be an obligation, not to do what is evil, but to chuse from two goods the greatest.

Sch. 3.—Obligations which have neither private nor public good for their object, are nugatory and invalid, let the authority by which they are established be ever so respectable.

Sch. 4.—As the wisest lawgivers cannot always foresee the effect which laws may produce, or may be mistaken in their well-meant intentions, it is possible that they form obligations, burthensome in their nature, and grievous in their effects, militating against both public and private good. A question arises, whether citizens, in such cases, may immediately throw them aside, withhold their obedience, and take the liberty of chusing for themselves.

This question, as it is of great moment and importance, appears at first sight to be extremely difficult; much, however, of that difficulty will vanish, if we reflect upon other weighty civil obligations, which enjoin to every citizen all possible care and perseverance for the maintenance and preservation of peace and good order in society, so essential to the promotion of public good. These obligations, which particular acts cannot supersede, dictate in all cases of a grievous nature, moderation, forbearance and patience, joined to a magnanimous solicitude, conducted with prudence, to try all possible means for redress, rather than to break in upon the tranquillity of our fellow citizens. What is a temporary submission to grievances, compared to the horrid consequences of anarchy and confusion? Is not a less evil, in collision with a greater, to be considered as a good? Public commotions are generally attended with evils and calamities, which involve present and future generations in the most ruinous consequences; they are therefore to be placed among those

those expedients which cannot be justified but by extreme necessity, where grievances are wickedly and intentionally multiplied and studiously continued, where all lawful means in the power of men have proved abortive and fruitless.

Sch. 5.—The effects of human laws are for the most part things eventual: as we are pleased with those which happen to be beneficial, we ought to exercise patience under such as are of an adverse nature.

Since the scope of moral obligation is to enjoin that which is good and to prohibit evil, it follows, that a faithful performance of our obligations renders our state perfect, and procures to the mind pleasure and satisfaction.

Sch.—Moral obligation is therefore the *friendly directrix of liberty*.

Exercise of liberty, contrary to obligation, is *licentiousness*.

Moral obligation is for certain *ends*, and *extends to all the means necessary* for their attainment: for ends and means are things naturally connected; the one is therefore inseparable from the other.

Sch. 1.—The consideration of the extent of moral obligation in this respect, is of infinite importance to all human affairs, particularly in the weighty concerns of government, where inconceivable mischiefs may arise from not carefully observing a due distinction between ends absolutely necessary, and such as recommend themselves by plausibility, or rest upon temporary expediency.

Sch. 2.—The intolerable hardships under which nations struggle are weighty and incontrovertible arguments why the splendor of their governments should not dazzle our eyes, or tempt us eagerly to adopt their maxims.

Sch. 3.—Citizens, murmuring against contributions which have a necessary and salutary influence upon public good, betray a want of discretion and of public spirit; they wish, in such cases, to separate protection and allegiance

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from that support without which the one cannot be afforded, and the other becomes void and nominal.

Obligations and rights are of a *reciprocal* nature, and always dependent upon one another, as causes and effects. As there cannot be an effect without a cause, so no right can be justly claimed or exercised except it accord with a previous obligation.

Sch. 1.—Could, for instance, the highest public authority claim and exercise the rights of ordering military services or imposing taxes, if citizens were not previously under obligations to defend the state and to support its government? or, can government extend the exercise of those rights in an arbitrary manner to the destruction of the state? We must answer in the negative; for things physically connected cannot, and those of a moral nature ought not to be separated. To pretend that rights might be claimed without, and exercised beyond or contrary to obligations, would be asserting that effects can take place without a cause.

Sch. 2.—This natural and indissoluble dependence of rights upon obligations deserves our particular attention, because rights are generally more obvious to our apprehension and more pleasing to our feelings than obligations: these always lay us under a kind of restraint, while it is the property of rights to impose no restraint upon ourselves, but to lay the burden of obligation upon others.

Sch. 3.—Hence we discover a principal cause why we generally feel a reluctance in performing our obligations; and why, on the other hand, we are so apt to boast of our rights. Hence it is, that men, actuated by sense and passion, often claim rights where none really exist, and are prone to extend those which they possess beyond their just and proper limits.

Hence it is likewise, that the best established governments, conducted with all possible moderation, prudence and justice, cannot be entirely free from jealousy and difference in sentiment between rulers and the ruled.

From this natural connection of obligation and right it evidently follows, that even positive obligations cannot

not be arbitrary, but must be conformable to the nature of man, of things, and of circumstances. Positive obligations depend upon the will of others; but that will ought to be directed by motives, and, if properly exercised, cannot be contrary to, but must be in unison with natural obligation.

Sch.—Government can in no instance be justifiable in commanding citizens to act contrary to public good; nor can any act of government make the commission of a sin just and lawful.

There is a distinction between human obligations and their correlative rights: some are of such a nature that their performance is liable to compulsion, whilst others leave the performance to our discretion and good will. In the former case, obligations and rights are *perfect*; in the latter, *imperfect*.

Sch. 1.—All acts of equity and humanity are of imperfect right, and rest upon imperfect obligation. To attend to the necessities of the poor, to clothe the naked, to feed the hungry, to direct into the right way those who are gone astray, &c. are important obligations upon all who are blessed with the means of assistance; and on the part of those who are in want, there is a sacred right to apply for comfort and relief. But from want and misery no right can result that may justify force and compulsion: the right of the poor and the distressed in this case is imperfect, and so is the obligation on the part of the rich and wealthy; it rests with them to judge whether assistance is in their power necessary or proper.

Sch. 2.—But all acts of strict justice are of perfect right, and result from perfect obligation. To oppose just, laudable and salutary pursuits, by hindering our neighbour in the use of just means in his own power, is an act contrary to his right and our obligation. If he desist upon our interference, he cannot satisfy an important obligation; on the contrary, he countenances a bad action, teeming with consequences fatal to himself and to mankind in general. In vain are his rights, and to no purpose are means in his power,

power; if in such cases he cannot compel us to act conformably to our obligation and to abstain from unjust interference. His natural obligation to make a proper use of those means with which he is blessed for good ends, gives him in this case the right of compulsion, and our obligation not to interrupt him in his just pursuits is perfect.

We call that *our own* in which we have a perfect right, and whereof we can dispose as we please.

Sch.—With respect to God we cannot call any thing our own; our perfect and exclusive right can only have reference to our fellow creatures, as all that we have is of him, and we ourselves the work of his hand. This consideration alone is sufficient to prove that nothing can be indifferent in all that we do or think, and that abuse is unjustifiable above all things. Let the sons of luxury and pride look upon the hand that scatters abroad his blessings upon men and beasts, and all that has breath; is it not for wise and good purposes that their lot fell into lovely places? Is it not that they should abound in virtue, in gratitude to God and benevolence to men? Let those whose hearts are too obdurate to feel the weight of these reflections, consider, that even the nature of their right condemns all indifference of conduct with respect to God and men. It is true, in our perfect right no man may interfere; but can we have or exercise it justly, if we act contrary to our obligation? But what is more inconsistent with, more repugnant to our sacred invariable obligation, than ingratitude, inhumanity, luxury, with its natural offspring, pride, oppression, injustice, impiety, &c.?

CHAPTER III.

Of Moral Law.

MORAL obligations obtain particular energy and binding force, if declared, prescribed, enjoined, and sanctioned by just authority; thus qualified, they become

come imperial rules for human conduct in all circumstances and situations of life, and assume the appellation and nature of *moral laws*.

Sch. 1.—Logicians call those definitions *real*, which shew the genesis, origin, and nature of the object defined. Of this description is the definition just given. Upon due examination it will be found not to disagree in any necessary point from the *nominal* definition generally adopted, according to which *moral law is a general rule, given by a superior to an inferior, for regulating human conduct, declaring what is right or wrong, or in what manner man ought to conduct his actions and use his powers and faculties*: on the contrary, it has that particular merit above the latter, that at first sight it more precisely determines the idea of a *true* superior upon the principles of just authority, with respect to the right of giving rules for human conduct, and the just mode in which it must be exercised. It also guards against a possible abuse of power in the administration of justice, by excluding all *arbitrary* rules of right and wrong from the sacred character of moral laws. Lastly, it maintains that our moral obligation in its nature is to be left inviolate by the commanding rule of authority: this gives to the former force and sanction, but can in no instance change its nature—No authority can cause true obligation to cease to be such, nor render that right which is repugnant thereto, under any circumstances whatever.

Sch. 2.—It must be deemed a high recommendation to our definition, that it is in perfect unison with the invariable and sacred laws of God, both the natural and the revealed. His authority, founded in his infinite power and godhead, so manifestly declared in the works of creation and preservation of the universe, gives infinite lustre and incomprehensible majesty to the divine laws; but is it not the peculiar glory, excellency, and beauty of those laws, that they likewise have their eternal and unchangeable foundation in the infinite wisdom and goodness of God, enjoining nothing but what is profitable and good? He, the Lord of the universe, is clothed with absolute authority, and can do all that he pleases; the world is his, and all that is therein; but he is pleased to govern man by those holy laws which his infinite understanding from
eternity

eternity has seen fit and necessary for his glory and the happiness of men; laws which are necessarily holy, perfect and immutable, for infinite wisdom has laid their foundation, infinite power carries them into execution, and infinite goodness directs their effects. The will of God is that we should be happy. His laws enjoin and command, by sanctions the most powerful, benign and majestic, *our true, our real obligation to endeavour to be happy indeed.* Here rules for our conduct and our moral obligation perfectly agree: the language of the laws of God is, THIS DO, AND THOU SHALT LIVE.

Sch. 3.—Behold the *glorious pattern*, the *infallible criterion* of all that is excellent, just and desirable in human laws! But is such a perfection attainable by frail mortals, and in affairs of which men are to have the management? We answer, and in its place shall prove, that it is the obligation of each particular individual to use his best endeavour to come as near it as possible; is it not the divine command which lays this obligation upon all men—*be ye perfect even as your father which is in heaven is perfect?* Can there be, therefore, an exception with respect to those who are invested with the right to direct the actions of men? Must it not be their indispensable duty to make use of their authority for the happiness of society, states and nations? Is it not the nature and design of the great power intrusted to them, that dictate the necessity of copying after the great and glorious lawgiver in dispensing benignity, philanthropy, and disinterested justice? How otherwise should they maintain the high character of GODS ON EARTH?

Sch. 4.—How happy for the good of society would it be, if these principles were always realized in human legislation! Oppressions and tyranny would cease; arbitrary measures would never appear or have any duration under the form and sacred character of laws: envy, detraction and sedition, with a train of black vices and calamities on the part of the governed, if ever they should make their appearance, would find not even a pretext, much less countenance. Societies, states and nations would be bands of brothers, and enjoy happiness indeed.

But alas! it is to this day a matter of doubt, whether such principles can be put in practice; the idea is generally ridiculed

ridiculed and spurned at by those who, being in authority, have the power to bring about reformation in points where arbitrary measures have assumed the form of laws: the notion has become familiar, that human authority has unlimited scope: even authors who professedly have treated of the nature of moral laws, favour an exception from the great rule, *that the laws of God maintain general supremacy over human institutions and laws*; thus they countenance the notion, that human laws have a peculiar character for themselves, entirely distinct from the law of nature and revelation, distinct, consequently from the nature of moral law. For, to give but one instance among the many, what does it avail, that we adopt the great truth which the celebrated Blackstone lays down in words very expressive, *upon these two foundations, the law of nature and of revelation, depend all human laws*; when we find that almost in the same breath he affirms as a truth, *that there are a great number of indifferent points in which both the divine laws and the natural leave a man at his own liberty*; with the additional observation, that in respect of them *human laws have their greatest force and efficacy*? He proceeds, and speaks of points not indifferent, for instance, murder, and allows human laws declaratory force only, thence inferring their subordination to the laws of nature and of revelation. Laws, therefore, according to his *tacit* confession, which act upon things indifferent, do not act in subordination to them. The consequence then is, that all human laws depend upon those divine laws, the natural and the revealed; and that some human laws, particularly those which have great force and efficacy, do not depend thereon! If those unchangeable divine laws leave points indifferent, how can human laws, acting upon such points, depend upon them? No, according to this reasoning they depend upon the will of the legislature; they have no solid permanent foundation, but are arbitrary. Should God thus leave his rational creatures to arbitrary disposal? It cannot be. His laws leave not one point indifferent: actions as necessarily have their consequences as causes their effects: these consequences have influence upon human nature, individuals, societies, &c. they are consequently far from being indifferent in the sight of God's natural law, which extends to all actions admitting of morality or immorality.—

ty. — Suppose that actions were indifferent, or their influence to human observation imperceptible, which certainly cannot be the case with God, could the exercise of liberty, could our choice be indifferent, when it is evident from the nature of things, that acts of choice are acts of the will? Where there is room for choice, there is a connection of motives, moral obligation, and cognizance of moral law, and of course controul of the laws of God. Does it follow, that an action is indifferent because it does not amount to murder? The distinction into *malum in se*, an action wicked in itself, and *malum prohibitum*, an action wicked because it is forbidden by law, cannot prove that the latter is more indifferent than the former; all that it intimates is, that actions have various degrees of deformity and guilt, and variously influence human happiness. The forum conscientiae extends to all actions; and human laws prohibiting actions which are repugnant to natural and revealed law, add indeed more guilt to disobedience, make actions more immoral, as new motives added naturally increase obligation, and leave less culpableness and excuse. They are subordinate to the divine laws, but have, notwithstanding this, as full force and efficacy as if they acted upon any other point. These things will be placed in a clearer light in the fourth chapter of this treatise, where we propose to speak of the various degrees of morality or immorality in human actions.

A small degree of attention will enable us to defeat the force of the examples by which the author illustrates his reasoning. In the case of murder, human laws, says he, have but a declaratory force, and act in subordination to the divine laws: in points indifferent, for instance, exportation of wool, they have their greatest force and energy; they enjoin and sanction obedience, and, as must be supposed by the author's reasoning, change the nature of action, make what is innocent or indifferent guilt.

But why may human authority prohibit the exportation of wool? Is it because the action is indifferent? Upon this supposition, how shall we account for the justice and wisdom of the legislature? Is it because it would be contrary to public good? In this case we can both account for the wisdom and necessity and justice of the law: it is then not an arbitrary proceeding acting upon a point which

which is indifferent, but very important indeed to the happiness of society: it is giving a rule for the conduct of citizens, which perfectly agrees with their moral obligation, under which they are naturally and necessarily as members of society, *to abstain from all that is contrary, and to do all things which are beneficial to public good.* Behold here a moral obligation prescribed, enjoined, and sanctioned, in perfect conformity with the sacred character of moral law, in subordination to the laws of God, both the natural and the revealed! Why should citizens obey that law? because it is their indispensable obligation; an obligation prescribed and sanctioned by authority upon the principles of right and eternal justice. If all citizens were faithful to, if they but knew their obligation, they all would abstain from an exportation prejudicial to public good, although there were no restraint or prohibition to the contrary: even were there a law enacted to command that exportation, they would, *ceteris paribus*, as sacredly be bound to transgress that law, as they are bound to transgress that which should command and enjoin the perpetration of murder: because, in both cases the command would be inconsistent with their true and real obligation: and there is only this difference, that murder is of direct, transgression in the other case of indirect maliciousness, and that the former has an immediate pernicious effect, the other a very remote one.

If the prohibition is just and necessary for the support of the poor and the encouragement of honest industry, and for the benefit of the whole community, a transgression of that prohibition may become in its consequences very fatal; as citizens, for want of employ, may habituate themselves to stealth, and perish by the hand of justice—others drag out their days in a comfortless and starved condition. Such a point should be indifferent!

We admit the principle, that upon the law of nature and the law of revelation, all human laws depend, and maintain, that there is not room for any exception, in respect of any of them, so that NO RULES FOR HUMAN CONDUCT GIVEN BY ANY AUTHORITY WHATSOEVER, CAN BE LAWS OF A BINDING FORCE, UNLESS THEY AGREE WITH THE LAWS OF NATURE AND OF REVELATION ENJOINING OUR TRUE AND REAL OBLIGATION, AND CONSEQUENTLY

QUENTLY BEARING THE STAMP AND CHARACTER OF MORAL LAW.

Hard as this conclusion may bear against proceedings of a long standing, which have taken their origin in times of ignorance or confusion, or have sprung up from the violence of party spirit, gaining strength from habits and interestedness, little as it can boast the support of learned authority; unfriendly as it may be to men, who have accustomed themselves to rule independent of natural justice; still it is true. Founded in the nature of things, and having for its support the internal evidence of truth itself, it ought to be regarded as the palladium of a just administration of government, and a guide at all times and in all places for the dispensation of justice.

Neither do we subscribe to the idea, that human laws, in points, according to the author, not indifferent, have but sole declaratory power. Has the perpetration of a crime, as murder, no influence upon the felicity of society? Should not, therefore, human laws exercise the same right to prevent, and to punish such as are guilty thereof, as they have the right to punish all who act contrary to the just and salutary laws of the land? By all means—governments may and do exercise that right.

Sch. 5.—It remains to account for the innumerable indifferent things and actions known by the appellation of *permissions*, because human laws take no cognizance of them. These are facts which cannot be denied, but afford no solid objection against the preceding animadversions; as that indifference is not in consequence of the natural and revealed law of God, or of moral law, but a necessary effect of the imperfections of human legislators. Be their stations ever so high, their power and wisdom ever so great, they do not cease to be men; they are neither omnipotent nor omniscient. Hence some things, in respect of human laws, must remain indifferent in their nature; others will be so under a variety of circumstances.

Of the former kind are all concerns of conscience in things in which men are only accountable to their God, as certain modes of worship: how may men dictate here, where they cannot see nor controul the hidden thoughts and windings of the human heart? or how can they controul what is not controulable by violence and force? Finally, how

how dare they usurp the prerogative of the Most High? All they can and ought to do, in cases where the felicity of society is really endangered, is to put a check upon the fatal effects of errors, innovations, &c. with all possible prudence and moderation, lest they incur the just imputation of being guilty of acts of oppression, persecution and tyranny.

These are things which, in their nature, ought, before human tribunals, to remain indifferent. How happy would it have been for the cause both of humanity and christianity, if these truths had guided the counsels of church and state!

But there are also many things, many actions indifferent, upon which human laws might act, if it were not for want of power and wisdom. It would be endless work, far surpassing human power, to direct each individual man by name in each individual action, under each particular circumstance of mode, time and place, and in each situation and relation of life. Only God can and really governs thus: each man partakes of human nature, enjoys the powers of conscience, is placed in particular circumstances by providence, is gifted with particular talents, for all which he is accountable to his God, who has written his law into the heart of every man, and knows and judges his thoughts. In the revealed law of God, wherein he declares and commands what men must do to be saved, the rules are general, because the means afforded to each person are the same, and consequently things in themselves of a general nature. But it is quite otherwise in respect of the natural law of God; here all obligations are of an individual nature. It is left to human wisdom and a proper use of reason to bring them under general rules and forms; for actions have a similarity; many, therefore, may be considered of a kin, and come under certain species or kinds.

For instance: Injury comprehends murder, theft, bearing false-witness, &c.

But human legislators, ignorant of individual persons, not able to watch and to controul each step of the conduct of men, equally unqualified to foresee effects, consequences and relations, must content themselves with general rules, comprehending often certain descriptions of citizens only,
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or actions of a certain class, complexion and tendency: human laws can and do, therefore, give only general characters and marks, whereby we are to see our obligation in special cases. It is on this account always a difficult task to know their extent and their proper sense and meaning.

We could add, that with respect to human laws, persons assume the general character of citizens, and as such are alike with others under general moral obligations.

These obligations must be performed by individual actions, which are determined as well in respect of our relation with other citizens, as the particular mode, place, circumstance, or any other quality whatsoever. Behold then the necessity of general rules, pointing out our particular moral obligation! But let it be remembered, that rule is for the sake of obligation, and not obligation for the sake of rule.

We may only adduce one or the other instance from human laws, in order to be convinced of the propriety of these remarks.

The moral obligation of citizens is to defend the state; government has a right to enjoin that obligation; each citizen is bound to obey a law so salutary, so necessary, so perfectly consistent with their indispensable obligation. But what would become of the state, if all must take arms? Is public good consulted, if manufactures of a necessary nature, if agriculture, &c. are at a stand? Must not wisdom direct, that a certain class of citizens, of a certain age and occupation, perhaps a certain number only, should oppose the enemy, the rest remain for cultivating the earth, administering justice, &c.?

One observation remains, that things, indifferent in the eye of human laws, must cease to be such as soon as their influence upon public good becomes known: likewise, precepts or prohibitions that have a dangerous effect, must either be changed into permissions, or turned into their opposites. So there will be no end to the obligations, to learn wisdom, that we may see the right way, and endeavour to abound more and more in uprightness, that we may walk therein.

Thus we have endeavoured to show, that all laws ought to have these two essential characters of moral law;

law; *true moral obligation*, and its sanction by *just authority*. From these sources flow all the general distinctions and properties of laws.

Laws are *preceptive* or *prohibitory*, as they import affirmative or negative obligations: these enjoin the omission, the former the performance of certain actions: thus the first law of the ten commandments is prohibitory, for it enjoins omission; *thou shalt have no other gods before me*. The fourth and the fifth, on the contrary, are preceptive, &c.

Sch.—However proper this distinction may be with respect to the general obligations which form the principal character of laws, yet it by no means extends to all their particular injunctions. There cannot be such a thing as a preceptive law entirely divested of prohibitions; neither can there be prohibitory laws which comprehend not precepts; for precepts and prohibitions are correlate ideas; the one cannot exist without the other. How, for instance, can our conduct be conformable to any precept, if we do not omit things which are repugnant thereto? Is it possible for men to be just who wallow in acts of unrighteousness? The same is the case with prohibitions and prohibitory laws. How can we act conformably to the law which commands, “*thou shalt have no other gods before me*,” if we do not endeavour to seek after the true God, to desire to know, to reverence, and to put our trust in him?

No laws can be given to persons who are not capable to exercise understanding, reason and judgment; for they are incapable of moral obligation.

Sch.—Hence it is, that infant children, lunatics and madmen are not under the cognizance of laws.

Laws are *universal* or *particular*: these import obligations which bind a limited number of persons, but the former enjoin universal obligations, binding to all.

Sch. 1.—The terms universal and particular being what is called correlate ideas, are taken in a greater or less extent. The
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idea of universality with respect to men, in its greatest latitude comprehends the whole human race, and leaves whole nations, states and societies under the character of particular ideas; but universality is often restricted to the idea of nations, states and societies, and leaves under particular consideration certain classes, descriptions, or a plurality of their respective members: these again may be formed into universal ideas, comprehending a greater or less number of individuals.

Sch. 2.—The laws of the ten commandments, and all natural laws, are, in the most extensive signification, universal; for they bind all mankind.

Sch. 3.—Human universal laws bind whole nations and states; all citizens, for instance, are bound to defend the state.

Sch. 4.—Human laws are for the greatest part particular; for though all members of society are bound to promote the common good, and all citizens to defend the state, yet there are many occupations and many ways in which common good is to be pursued, and there are also many things necessary for a vigorous defence of the state besides military service; agriculture is not to be neglected, necessary manufactures must be attended to, &c. Many exceptions and modifications must therefore enter into laws providing for common or public good; many dispensations will be found necessary and expedient.

As human laws act upon a vast variety of interests, under an inconceivable multiplicity of circumstances, we need not wonder that we often meet with intricacies and difficulties in determining their extent with respect to the persons and actions which come under their cognizance. Laws are conceived in words, and these have not always a precise meaning; or their sense may be variously affected by the connection of sentences in the various expressions necessary to shew the particular modifications of the obligations which laws intend to sanction. The sense and extent of the precepts and prohibitions must therefore often remain fluctuating, so that they are subject to different constructions, and sometimes

sometimes admit of dispute. It is therefore necessary to have a foundation for the construction of laws, less liable to change and more uniform than words. This must be the very cause that gave rise to them; the end and scope for which they were enacted. The cause and scope of laws must therefore lead our inquiries into their extent, and finally determine our decision: on this account they have obtained the appellation of *the spirit of laws*.

But how shall we always discover the true cause and scope of laws? may it not be often a subject of controversy? It may be: but we shall find our inquiry in that respect greatly facilitated by considering the *occasion* of laws; that is, by attending to a concurrence of circumstances which have given rise to them.

Sch. 1.—He therefore who would determine the extent and meaning of laws, must not lose sight of their spirit—must not be inattentive to the occasion of their origin.

Sch. 2.—For instance: in times of a public commotion, laws may pass which lay great restrictions upon persons in the pursuit of necessary and innocent occupations. Should that restraint continue when the affairs of the state or city are settled, and all things bear the aspect of peace and good order? Attend to the occasion of those laws, and you will find that these restrictions have lost their efficacy. Suppose farther, that the law forbids any person to be seen in the street after a certain hour; can that extend to a messenger sent for a physician in a desperate case? can it extend to the physician? Here certainly is an exception, if the spirit of the law be consulted.

No actions come under the controul of laws which are not in our power, or which depend not upon our will; for in such cases no obligation can take place.

Sch.—It was not a law, but an act of tyranny, that commanded the Israelites to make bricks without straw.

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The spirit and scope of all laws ought to be, that we do what is good and avoid all that is evil; for this alone can be the scope of our true obligation.

Sch. 1.—Laws which command what is bad, and prohibit what is good, are grievous oppressions, and void in themselves.

Sch. 2.—Laws which have no good for their object, are nugatory and invalid.

Sch. 3.—Laws are salutary and have binding force, which have public good for their object, though they bear hard on private interest.

Sch. 4.—Should laws prove to be contrary both to private interest and public good, they would cease to bear the sacred character of laws, and have no validity in themselves.

Sch. 5.—Upon the question, Whether we are at liberty to set those laws aside? we answer, that public authority, for the sake of peace and order, is entitled to great respect and deference; that one improvident act cannot disannul the powerful obligations which are kept inviolate under the protection of the laws of the land. Public felicity, so inseparably connected with the observance of order, renders it adviseable, nay necessary, that the ruled bear patiently a temporary inconvenience, and pursue the most gentle means for redress of grievances. Those who are so very apt to find fault with government, and magnify ant-hills into mountains, should consider, that their rulers are but men; that a government watching for the welfare of a state or a nation, is a momentous and arduous task; that laws have to take a prospect of things which are yet in the womb of futurity; that effects of the best intended means are often problematical; that it is not in the wisdom or power of men to foresee or to controul events. There is such a thing as a laudable jealousy on the part of the governed, which keeps pace with the situation and concerns of the public good, and aims at an inviolate enjoyment of our natural and political rights. The character of a good citizen, of a patriot, is not to court popularity, by catching at every opportunity to render government odious in the eyes of his fellow citizens; public good is his primum mobile; he will be incessant,

cessant, but prudent and moderate in his endeavours to seek a happy change in all that has not a benign influence on public happiness.

And who should be more ready or willing for such a change than men in authority, who have power to rectify all that is improper? Should they not be vigilant, even anticipating applications for redress, by timely administering salutary and necessary remedies, when any public measure has taken place which answers not public good? Is it not for this end that the very power they possess is intrusted to them? Men of true wisdom will always be conscious of their own fallibility—the guardians of the laws should first see their effects. It is no disgrace to any government to rectify abuses: it is, on the contrary, a circumstance not altogether honourable to the understandings or the hearts of rulers, if grievances are continued: I know of no epithet strong enough to convey the idea of detestation and abhorrence which a government deserves, if it should persist to defend or support them.

Upon the preceding proposition, which proves the good and salutary tendency which all laws ought to have, depend the ideas of *legal* morality or immorality: where actions conformable to law are considered as good, those which are repugnant to its precepts or prohibitions are bad: actions, concerning which laws do not determine, are *permissions*; that is, actions legally indifferent.

Sch. 1.—As it is possible that unjust laws exist, it is also possible that actions be *legally bad* which are really good, and vice versa.

Sch. 2.—How often have unjust and tyrannic laws condemned as treason and heresy, actions the most heroic and beneficial to the cause of God and man?

Sch. 3.—In one forum an action may be permitted, which in another is not so. In the forum of nature and of nature's God no action is indifferent; no permission takes place.

Sch. 4.—All actions which concern the consciences of men ought to remain indifferent in foro civili: civil laws

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may only restrain the effects of such actions when they have a fatal tendency with respect to public good.

Sch. 5.—All actions indifferent in foro civili, because their good or bad influence upon public felicity is not immediately discernible, cannot be such when experience points out their influence.

We are said to *obey* a law, if our conduct is conformable to its precepts and prohibitions upon the strength of motives taken from that law: a contrary conduct is called *disobedience*.

Sch. 1.—Hence every action conformable or contrary to law cannot immediately be considered as an act of obedience or disobedience: for instance; strangers not knowing our laws may conduct themselves in conformity to them from a sense of propriety; they cannot take motives from laws of which they are ignorant. Likewise, foreign ministers are not amenable to our laws; they are not bound to obey them; still, from a principle of good sense, decorum and politeness, they will not act contrary to them.

Sch. 2.—As laws have for their object to command what is good and to prohibit what is evil, it follows, that by obedience we obtain a good, and subject ourselves to evil by disobedience. Obedience to just laws will therefore render our state more perfect; disobedience, on the contrary, will render it more imperfect both in the eye of law and in reality.

Before laws are given, they cannot be obeyed or disobeyed; for no legal motive is afforded for regulating our conduct.

Sch.—Ignorance of a law, with respect to an individual, is to him as if it were not in existence; for our mind can be as little affected by what is unknown as by that which does not exist.

Laws can only direct with respect to things which may take place, not of such as have already happened.

Laws which have retrospect on things past, are stiled *ex post facto laws*. Such contradict every principle of reason;

reason; are acts of unpardonable injustice, and opposed to the very idea of law.

It is impossible that a person can obey a law, or be guilty of disobedience, if the knowledge thereof is not in his power.

To cause laws to be known that they may become obligatory and binding, is called the *promulgation* of laws.

Before promulgation no law can be known; consequently neither obedience nor disobedience is possible.

Sch.—It is therefore a consideration well worthy the attention of government, and of great importance to the community, that laws be properly promulgated: a question arises, whether publication in a newspaper is sufficient to cause all the inhabitants of an extensive country to know the laws by which they are governed? To put laws not sufficiently promulgated into execution, is more to lay snares for the governed than to take proper care of their conduct and to benefit society.

Laws cannot properly be said to be known if they are not understood; hence it is evident, that laws must not be contradictory to themselves, that they be intelligible, that they be declared and prescribed in words the plainest and the most unequivocal, that every sentence be well determined and expressed, to prevent misconstruction and mistake.

Sch.—If it be unavoidable entirely to abstain from technical terms, it follows from what has been said, that they ought to be used as seldom as possible. They may serve to display learning and skill, but must remain unintelligible to a great part of the community.

Whatever care is taken to render laws clear and intelligible, yet such is the condition of the human mind, such the nature of language, that it is impossible to convey ideas with such precision as to leave no room
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for a possible misapprehension. It is therefore necessary to explain the true sense, meaning and extent of laws; that is, laws must be often *interpreted*.

Interpretation is distinguished into the *authentic*, the *customary*, and the *doctrinal*.

Sch. 1.—Authentic interpretation proceeds from the lawgiver; the customary is inferred from the customs of a country, or a particular district thereof, nay, even from particular usages of towns; the doctrinal depends upon the application of the rules of grammar and logic, and upon inferences drawn from the spirit and occasion of laws.

Sch. 2.—Some adduce precedents as helps for interpretation; but as these may be good or bad, it is to be feared that dependence upon them is often very unsafe.

Ignorance of laws is said to be *vincible*, if it has been in our power to know them; if otherwise, it is *invincible*.

Sch.—One who labours under invincible ignorance may violate a law, but cannot be guilty of disobedience.

Since it is the scope and nature of salutary laws, that in all their precepts and prohibitions they contemplate the happiness of those who are under their cognizance and controul, it necessarily follows, that nothing is of greater consequence to the general felicity of mankind than obedience, nothing more hurtful and pernicious than disobedience; for as such laws, duly observed, necessarily produce salutary effects, affording protection of life and property, and securing that peace, harmony and concord which render social intercourse desirable, and diffuse ease, comfort and happiness into every state and condition of life; so acts of disobedience, on the contrary, defeat these salutary ends, frustrate the good intentions of the lawgiver, deprive mankind of the choicest pleasures of which this life is capable, and spread
abroad

abroad dissention and confusion to the annoyance of all that is agreeable and delightful in human conversation.

Hence we see, that the nature of laws, the intention of the lawgiver and the very happiness of mankind require that the due observance of laws should be made as important as possible, by affording to all who are under their controul the strongest motives, sufficient to excite every well-wisher to mankind, every friend to human happiness, to acts of faithful obedience, and to deter from wanton disobedience those whose hearts are either strangers to the tender feelings of duty and humanity, or who are too weak to withstand the temptations and allurements of vice.

Laws are said to be *sanctioned*, when strong and powerful motives are connected with acts of obedience and disobedience, calculated to ensure their faithful observance; this will be the case, if consequences highly beneficial and interesting are connected with acts of obedience, while the contrary will result from disobedience; for in this manner obedience will become a great, a desirable good, disobedience a detestable evil.

As good or bad consequences, resulting from acts of obedience or disobedience, have respectively obtained the name of *rewards* and *punishments*, it follows, that laws must be sanctioned by rewards and punishments.

Laws thus sanctioned place obedience, which is the basis of all virtue and all that is excellent in human conduct, in its true light, and hold up to public view disobedience, that defiling source of sin and vice, in its detestable turpitude and deformity; for rewards and punishments, in their nature and effects, are of great extent, and have the greatest influence on the dearest interests of mankind. Leaving to an abler pen the task
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of making researches into the various causes that may have co-operated and still co-operate to render the sanctions of divine and human laws of so little importance to the generality of the children of men, as to leave room for doubt whether there is such a thing that deserves the name of sanction, and in its nature can shield the inviolability of laws from unhallowed infractions, we content ourselves for the present to show, that the great unconcernedness observed in human conduct, the neglect of the laws of God and of men, does not proceed from the nature of moral law, nor from the nature of any laws which bear its sacred character, nor from a defect in the sanctions thereof. These in their nature are powerful, and will not fail to be so in their effects, where they act upon a sober mind, unbiassed by prejudice, passion or evil propensities; a mind immaculate, not blinded or debauched by the contagion of bad examples and practices. Are there motives more powerful than the principles of self-interest, the desire after honour and a good character, or the inward sense of happiness and contentment? Behold, all these principles are embraced by the sanctions of laws!

What can be more truly interesting than obedience, since it is the only sure, necessary and efficacious mean whereby all the beneficial intentions and effects of laws, ensured and enhanced by the additional advantages of their sanctions, are *realised* and appropriated to ourselves? Protected by the law, we are free from fear and danger of the punishment which follows transgression, both by the nature and tendency of the violated prohibitions and sanctions thereof. Is it not, on the contrary, the natural effect of disobedience to subject the violator

lator to all evils which flow from transgressions and the sanctions of laws, and to deprive him of all their beneficial intentions and ends?

Do we not feel a desire after honour and praise? do we not esteem highly the good opinion and approbation of others? and who does not feel himself deeply affected without them? What a powerful incentive to obedience is that innate sense of honour of which the most wicked and profligate cannot entirely divest themselves! We have only carefully to distinguish true honour from adulation, flattery, pride and folly, and we shall find that faithful obedience to law is the only road which leads to true honour and praise: as an action of a benign influence on society, it must have *merit* in the sight of God, of the human lawgiver, and of all who value virtue and human felicity; and in its effect must be reckoned a public benefit. Must not the agent, the upright man, the good citizen, by such conduct naturally attract the attention of the lawgiver and of all good men, have their good opinion, and meet their approbation? Is it not in this that true honour and praise consist?

What *demerit*, on the contrary, ought disobedience to have in the sight of the virtuous part of mankind? As it is an action opposed to the general good of society, must it not be abhorred and detested by all who feel for the cause of humanity and justice? must not the agent be considered by them as an enemy to peace, good order and public happiness, and meet their censure and blame?

But what far exceeds all external honour and praise, is above all worldly splendor and greatness, even where it is merited and justly bestowed, and is, at the same time,
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our support under all manner of adversity—our consolation in death, is the *internal sense* of the rectitude of our intentions and actions, which faithful obedience and virtue doth not fail to instill. How great is the reward of virtue! inward satisfaction and peace! the approbation of a good-conscience! the approbation of our God! the enlivening sense of his favour, and a glorious prospect of eternity!

Reverse this delightful picture; you will see what blessings the disobedient servants of sin and vice lose in flighting the rewards of virtue. The punishment they draw upon themselves, by their wanton transgressions, exceeds the power of expression—exceeds human comprehension!

Sch. 1.—If that be true which in the beginning of this chapter we have endeavoured to prove, that all human laws ought to bear the benign, majestic and immaculate character of moral law, as far as is attainable, we may with confidence assert that their sanctions are of equal extent.

It is true, human laws, with respect to the authority of men, have but an external effect; their power cannot reach the internal feelings of the heart: if laws are obeyed, that is all human authority requires, and that is necessary for the maintenance of the peace of society: before an human tribunal, no enquiry is made concerning the principle of obedience, whether it is love of virtue, or servile fear of punishment.

But it is also true, that more is required for securing obedience and the happiness of mankind, than human laws can effect. That which they cannot reach is under the controul of the laws of God, and under the power of conscience. Before the tribunal of God, and at the bar of our own conscience, we are accountable for all our actions, whether they be done or omitted in the private walks of life, or in our social and public relations.

Sch. 2.—Hence the necessity and great usefulness of religion in every state and condition of life, as it engages the consciences of men, and requires in all our actions sincerity and

and inward rectitude, and impresses the soul with a most lively sense of our responsibility for all we do or think, before the tribunal of him who judges in righteousness, and will render to every man according to his deeds.

Permissions, as has been already observed, are actions of which certain laws take no cognizance.

Sch.—In one forum an action may be a permission which in another comes under cognizance of laws, and perhaps is a high transgression. With respect to the jurisdiction of the United States, there are a number of actions permitted, which, by the laws of the respective states, are highly criminal, and vice versa. All that is strictly a matter of conscience human laws wisely consider as permissions; but all actions of that nature are accountable before the tribunal of God.

Abrogation, derogation and dispensation are terms which have reference to human laws acting upon eventual objects, which are for the most part problematical and uncertain; it may, therefore, be, that all or only some precepts or prohibitions of laws fail to produce the intended effect, or in their operation happen to have an opposite tendency. If all precepts and prohibitions have such an operation, they all ought to be changed into permissions, or even into their opposites, should there be cases to require it; that is, the whole law ought to be *repealed* or *abrogated*.

But if there are but some precepts or prohibitions obnoxious in their tendency, these ought to be changed; that is, the law ought to undergo a *partial repeal*, known by the name of *derogation*.

Dispensation does not introduce any change into the precepts or prohibitions of a law, but only restricts its effects in favour of some persons or circumstances.

There is a possibility, that of several laws certain precepts and prohibitions come into collision; in which

case it is a questionable matter which we are to obey, and which, under that circumstance, may be set aside. This question is generally solved by the maxim, *Laws subsequent derogate from those which are of a prior date*, because it is the latest declaration of the will of the legislator; and what difference appears in the latest and former laws must be supposed to be produced from a change of his sentiments and will. It must be confessed, that this maxim has much plausibility, and might be safely followed, if we could be certain that changes introduced are always for the better. But it presupposes that laws have for their foundation only the will of a superior, independent of the previous moral obligation, and therefore little good may be derived from it; for the will of the lawgiver may change for the worse.

We should rather think, that the moral obligation imported by such laws, and principally affected by their several precepts and prohibitions, is the true criterion to direct our choice where laws and duties clash.

Laws are *greater* or *less*, as the obligations which they import consist of more or less motives.

If, therefore, whole laws should come into collision, so that in order to obey the one we must set aside the other, it is manifest that the greatest has binding force.

Sch.—This rule was very well applied by the Apostles against the presumptuous command of human authority, forbidding them to publish saving truth: *We ought*, said they, *to obey God rather than man.* Acts v. 29.

There is also a notable distinction of laws into *natural*, *positive* and *qualified*, as they import obligations which flow from nature, from the will of another, or from both alike.

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Sch.—For instance; the law, *Thou shalt have no other gods before me*, is natural, because it flows from the nature of God and the natural dependence of man upon him in all that concerns his happiness; but it is a positive law, depending solely upon the will of God, which is recorded, *Exod. xxiii. 17.* in these words: *three times in the year all thy males shall appear before the Lord God.* The fourth commandment contains a qualified law: it is natural that man should set apart a certain time for attending, in an immediate manner, to the concerns of his immortal spirit: public acknowledgments of the blessings received from God, acts of humility and devotion before his throne, public adoration and thanksgivings, are obligations resulting from the nature of God, of man, and of that relation in which he stands with respect to his maker and to mankind in general. But the time appointed for this rest depends upon the will of God, and in no wise flows from nature.

The law denouncing death against murder is another instance of qualified laws: this flows from nature, bears the sanction of the will of God declared in his revelation, and has a place among the penal laws of the land.

We distinguish natural laws into *necessary* and *contingent*; for natural obligations may flow from the nature of actions or things considered in themselves, or from their nature considered under circumstances. In the first case, natural obligations cannot undergo any change or modification but are necessary; in this case, they admit of modifications, and on that account are said to be contingent.

Sch. 1.—It is a necessary natural law, “*thou shalt have no other gods before me*,” and of this kind are all laws which have actions for their object either of internal rectitude or internal malignity, or what is otherwise called a good or an evil in themselves.

Sch. 2.—But all natural laws which have force in actions that are good or bad under circumstances, are contingent: the nature and complexion of these actions change according to circumstances; for instance, the law, *thou shalt not kill*, is a natural law; it flows from the nature of man and of his

his relation to God, that he should enjoy that life which is given him as well as another; it also flows from nature, that men should rather protect than take it away. But suppose the case, that a person is attempting to take your life, or the life of your parent, your child—suppose your country in imminent danger, and many valuable lives in jeopardy; will not killing such an enemy to mankind be a permission, or in some cases even an obligation?

Rewards and punishments are also distinguished into *natural, positive, or qualified*; as consequences connected with acts of obedience or disobedience either flow from the nature of the law, or the will of the lawgiver, or from both alike.

Sch.—Peace and contentment, the natural rewards of virtue, may be augmented by positive rewards, by honour and praise, or by advantageous situations in society.

Want, obscurity and regret, the natural consequences of idleness and prodigality, draw after them contempt, blame, disgrace, sufferings, expulsion from society; &c. as positive punishments inflicted by a wise legislator.

Men need only be attentive to the internal feelings of their hearts, and they will find the effects of qualified rewards and punishments united.

Should it happen, by a strange unconcernedness, both on the part of the legislator and on that of the community, that virtuous obedience of law be disregarded, and transgressors thereof, the enemies of the peace and happiness of society, escape positive punishments, censure and blame, and be suffered to enjoy the estimation of their fellow citizens, be honoured and preferred, because they are learned, rich, and practise upon their easiness and credulity; we can only pity society, and assert, that their indiscretion is and must be their highest punishment, because they are guilty of a
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conduct highly repugnant to their own felicity. Honours thus bestowed may have the name, but are destitute of reality, and cannot compensate for the want of internal peace and excellency.

It is true, there are punishments which have, what all punishments in a certain degree ought to have, shame and disgrace annexed to them, as, for instance, our corporal and capital punishments: but should not he also be blamed, who, by fraud, by breach of promise, or in any other unjust manner, oppresses his fellow citizens, and deprives them of their character and property?

Let us conclude this subject with this observation: as long as a community does not entertain the sanctions of laws as they ought, it cannot be expected that laws will produce their salutary effects, or society enjoy that peace, concord and unanimity of which it is capable, and upon which its greatest ornament and happiness depend.

There are natural laws, for there are obligations which flow from the nature of God, of man, of actions and of circumstances; for instance, the law, *thou shalt have no other gods before me*.

Natural laws are *immutable*, for the obligations which they import flow from nature.

Immutability may be *absolute* or *hypothetical*: things absolutely immutable are unchangeable in themselves; those which are hypothetically immutable are unchangeable under circumstances.

Laws necessarily natural are absolutely immutable; they can admit of no modification whatever; for instance, blasphemy, idolatry, assassination, murder, cannot

not be permitted, much less commanded, under any circumstance whatever; these are what is called actions wicked in themselves.

Likewise, actions of internal rectitude, as seeking after God, adoring his goodness, pursuing virtue, gratitude to a benefactor, no laws can forbid: though they are beyond the controul of human laws, they cannot be indifferent, or things only permitted in the forum of nature and of nature's God; they cannot but be pleasing to him; they must have the sanction of his will; and the contrary thereof must always be heinous sins.

Laws contingently natural are hypothetically immutable: the nature of the action is affected by the nature of circumstances; as these change, the nature of the action obtains a different modification. Though you cannot expect absolute immutability in this kind of actions, still there is, with respect to the modifications thereof, this unchangeableness: that the nature of the action has always the same complexion under the same circumstances; for instance, the law, "thou shalt not kill," is natural; for it equally flows from the nature of another person and his natural relation to God, in whom he moves, is, and has being, that life is as precious to him as it can be to us; we may as little take away his life as he has a right to take away ours. The taking away his life in a wilful, malicious manner must therefore be a sin against the absolute immutable natural laws of nature, and cannot be permitted, much less can it be right under any circumstances whatever. But take away malignity, that internal character of murder, and you will find, that there may be circumstances where the life of a person may be taken away innocently.

innocently. Suppose a person the cause of another's death accidentally, is he a man of feeling who has not pity for the unfortunate agent? If a person is killed in the act of committing murder on a parent, a child, a neighbour, or in waging unjust war against our country, who can blame, who will not highly esteem the heroic protector of the innocent, the patriotic defender of his country?

Sch.—From this hypothetical immutability flow most of the maxims of morality, the respective rights and duties of individuals, societies and nations among one another. If one person has a right to repel an injury by force, another, if such injury is committed against him, has the same claim. If one nation may make war justly upon another, on account of a certain public proceeding, another nation, let it be ever so weak, has, under the same circumstances, the same right, &c.

Natural laws may be known by reason; for all that flows from the nature of things and circumstances may be known by that noble faculty of the human soul.

God has promulgated human laws, by endowing man with understanding, reason and judgment.

As far as reason extends, so far extends the promulgation of natural laws: it may, therefore, be well said to be written into every man's heart.

Hence it follows, that ignorance of the laws of nature is vincible, and leaves no excuse.

ALL NATURAL LAWS ARE DIVINE; that is to say, *depend upon the will of God*; for nature and all that flows from it is by the will of God.

He, therefore, who wishes to obey natural laws, must consider them as the laws of God; that is, he must not only act conformably to them, because they have a most salutary influence upon his own happiness
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and the felicity of others, but principally because it is the will of God—it is required by his perfections—it procures us his favour, and makes us conformable to his image: motives taken from the will and perfections of God, will elevate our minds—will render us constant and sincere in our pursuits, and set us above every other consideration, so that no envy or opposition can shake or change our resolution to obey our God and to do his will.

Natural laws are in the greatest latitude universal, for the obligations they import are binding upon the whole human race.

Sch.—All men, societies, states, nations and governments are therefore under the controul of the laws of nature.

Natural laws have also an universal extent to all actions of a moral nature; for natural obligations have that extent.

Sch.—Another proof that no action can be indifferent.

From the immutability and universality of the laws of nature, it follows, that no law can be just that is contradictory to the laws of nature; that with respect to them, no abrogation, derogation or dispensation can take place; that they leave no room for advice or permissions.

Positive and qualified laws, as far as they are positive, admit of abrogation, derogation and dispensation.

Natural laws may be deduced from a first principle, that being generally the case with things which have their foundation in nature.

Authors on morality studiously differ in determining which this first principle is. From a laudable design to introduce into all deductions the original purity of the principle from which they are inferred, some will

will hear of no other first principle than the will of God. CONDUCT YOURSELF IN ALL YOUR ACTIONS CONFORMABLY TO THE WILL OF GOD: this, they say, is the first law of nature, the foundation whereon all others stand, the source from which all duties must be deduced: this affords motives of the highest nature, of the greatest power, that have a purifying influence on the human heart, render it sincere and upright, and elevate the mind far above the temptations of interest and the praise or obloquy of men. Here we have not to look to ourselves or to the world: we are to look up to our God, and place our happiness in a conformity to his will. Those who differ from them fully subscribe to this excellent principle, and maintain, with equal zeal, that our obedience ought to be principally actuated by the consideration that it is the will and majestic command of God.

But, excellent and infinitely exalted and pure as this principle may be, still they object, Whereby shall we know what the will of God enjoins in each particular case? must not that will be declared? and is not that which declares it prior in respect of our knowledge? But the will of God is declared by the natural aptitude and tendency of the nature of things to the great end of his glory and of human happiness. What, therefore, is found by reason and experience to render us happy, is commanded by God; all actions of an opposite tendency are forbidden. The first law of nature, then, is, "DO THOSE THINGS WHICH RENDER THY STATE HAPPY, AND AVOID ALL THAT CAN RENDER THYSELF UNHAPPY AND MISERABLE," and must be considered as the first principle from which all duties, all that is right or wrong among

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men, is to be deduced, whatever their state or condition may be.

Before we determine which of these principles ought to be considered as the first, it will be necessary that we consider principles in their different relations; for there are principles which have reference to the essence or existence of things, and principles different from them, which have respect to our knowledge of those things.

All possible things have their foundation in the infinite understanding of God.

All things existent depend upon his omnipotent will.

All our knowledge of things possible and existent is founded in their nature and effects, discovered by reason and experience.

Thus, with respect to moral law, it is the divine understanding that has ordered the natural influence and tendency of things, and particularly of human actions, in such a manner as to manifest the glory of God and render mankind happy. His omnipotent will has called into existence whatever his infinite understanding saw fit for the happiness of his creatures; and by giving man reason he has manifested and declared his divine will, according to which man must conduct himself in order to be happy.

It is therefore our first and indispensable obligation to endeavour to know what God in his infinite understanding has ordered for our happiness, and what his divine will commands us to do or to omit, that thereby we may be enabled to act in conformity to his laws and obtain their end, our own happiness.

We cannot, therefore, but adopt the proposition, *do those things which render thy state happy, and avoid all that*

that can render thyself unhappy and miserable, as the first law of nature, and the first principle from which every duty and all that is right or wrong in human conduct is to be deduced.

But let it be observed, that although this principle has the first place in directing our inquiries concerning the commands of the will of God, yet it is the divine will itself which should be our first consideration and our principal motive in practice; so that we conduct ourselves conformably to the laws of nature, not solely from this consideration, that thereby we render ourselves happy, but principally because it is the will of our God. Thus we shall, in all we do, be actuated by sincerity and humility of heart, and walk as in the sight of God. Our conduct then will not give occasion to objections against our first principle, that it favours too much of self-interest, and is liable to be perverted to many abuses: on the contrary, it will be an animating thought, that we do the will of God if we endeavour to be really happy, and that our true interest, our real happiness requires that we do his will.

Sch.—Behold the indissoluble connection between our duty and our interest! Are there any who, from motives of interest, transgress the laws of nature? It is not the principle of law that misguides them; it is the perverseness of their heart that blinds them; it is, that they know or mind not their true, their real interest.

Since, then, the principle of natural laws commands our own happiness, it necessarily follows, that all of them have the same scope and tendency, and that by obeying them in sincerity and uprightness we shall be happy. Disobedience, on the contrary, must be entirely repugnant to our interest, as it cannot fail to render us unhappy.

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What an important consideration this! what a powerful motive for exciting us to habitual obedience, and for deterring from acts of disobedience!

Habitual obedience to the laws of nature, or a habit of acting conformably to their injunctions, is called *virtue*. The opposite of virtue is *vice*.

An action to be done conformably to law is stiled *duty*.

Faithfulness in the performance of our duties, and the practice of virtue, are consequently the road to happiness. Remissness in duty, and a vicious conduct of life, lead to destruction.

Actions referred to natural laws constitute the *natural forum*.

Before the forum of nature all actions are cognizable; they consequently will be either conformable or unconformable to the injunctions of natural laws, which, as has been shown, leave no action indifferent or permitted. All actions, therefore, are good or bad, and as such will be rewarded or punished. But as all natural laws are divine laws, it follows, that the natural forum is the *divine forum*; and we may draw this conclusion, that IN THE FORUM OF NATURE AND OF NATURE'S GOD, THERE IS NO ACTION WHICH WILL NOT BE EITHER REWARDED OR PUNISHED.

If, therefore, there are actions which are not rewarded or punished in this life according to their merit or demerit, it is evident, *that a day must come when shall be rendered to every one according to his deeds*.

Laws are *perfect* or *imperfect*, as the obligations which they respectively import are either the one or the other.

It is the nature of perfect laws to give *remedial* rules against wrongs received; rules which warrant coercive and compulsory means for obtaining redress and inflicting punishments.

But imperfect laws afford no remedies of a compulsory nature, but leave the transgressor responsible for his conduct before the tribunal of God and before his own conscience.

Sch.—Little as these laws may be regarded by the generality of mankind, as in the human forum they bear the aspect of advice rather than of law, still they are of the greatest importance. They are the unalterable and eternal laws of God, of the highest and most awful responsibility. Here the oppressed and their oppressors must meet; kings, emperors, princes, nobles, the exalted, the rich, the great, the poor, the most distressed must appear as men; an account must be rendered for all that human laws either did or could not reach, and every man receive according to his works!

CHAPTER IV.

Of the different degrees of morality or immorality in human conduct.

EXPERIENCE evinces, that there are various degrees of rectitude or malignity in the actions of men. These, referred to the intention of agents, become so many traits in the moral character of man, descriptive of the degrees of probity or reprehensibility of his conduct. It is on this account that the languages of civilized nations apply various epithets both to actions and agents, as they are respectively found more or less conformable or contrary to their ideas of right and wrong.

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Sch. 1.—We may not, however, rest our estimation of human conduct upon terms; as in their nature they are but arbitrary signs of ideas, they may and indeed do often change their significations. This is particularly the case with respect to subjects of morality, as words denoting the different degrees and qualities of merit or demerit in actions, and the proper share of commendation or reprehensibility which agents ought to have in our estimation, are sometimes promiscuously and frequently very variously applied. Are not the terms just and unjust, honest and dishonest, &c. often used to denote actions of the same quality and persons of the same character? And how often does vice, with its offspring, assume the appearance and the names of virtues? Even these are often branded with epithets originally designed to shew vice in its various windings and native deformity.

Sch. 2.—It is therefore necessary that we define those terms, in order to introduce into this subject that precision which its importance demands. With us, then, the terms, 'a just, an unjust, a reasonable, an unreasonable, an honest and dishonest man,' denote not one, but very different characters: we make a material distinction between unjust, unreasonable, and dishonest actions and men.

Since, as has been proved, both perfect and imperfect obligations are indissolubly connected with correlate rights; and since it is the nature of laws, as they import moral obligations, to define our rights in consequence thereof; we may, on the one hand, form our ideas of right and wrong immediately from the nature and extent of our moral obligation, or derive them in a mediate manner from the determinations of laws. If, therefore, we wish to form an estimate of the degrees of morality or immorality in actions, we may refer them to perfect or imperfect laws, or to perfect or imperfect obligations.

Those actions which are referred to perfect or imperfect laws, are respectively *just* or *unjust*, *reasonable* or *unreasonable*.

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Actions, on the other hand, referred to perfect or imperfect obligations, are respectively either *externally* or *internally honest*, or the contrary.

Sch. 1.—A just action is done conformably to perfect law, the unjust is contrary thereto; for instance, discharging a bond, a mortgage, a note; or making over property to children or others, in order to defeat those perfect demands.

Sch. 2.—A reasonable action is consistent with imperfect laws, the unreasonable is inconsistent therewith; as giving time or remitting our perfect demands, if the debtor has been unfortunate; or, notwithstanding this, to insist upon punctual payment, and to distress the unfortunate.

Sch. 3.—An action done or omitted conformably or contrary to our perfect obligation, is honest or dishonest; for instance, to satisfy our bonds or notes before another makes demands, in as full a manner as we ought; or to take advantage of his ignorance or easiness; or to try to make satisfaction in a manner inadequate to our obligation, taking advantages of the insufficiency of laws, of terms, and other circumstances.

Sch. 4.—Actions done or omitted in conformity with our imperfect obligations may be called *pure*, or *actions done in uprightness*; for here we only consider the internal beauty or deformity of actions, consult the feelings of humanity, nay, take pattern from the ways and perfections of God.

This reference of actions to the different laws and obligations, and the distinction of the different qualities of actions in consequence thereof, are by no means things of an arbitrary nature, but founded in the essential properties of those laws and obligations respectively. For when our ideas of right and wrong are taken immediately from the nature and extent of our moral obligations, they must be purer and more certain, as they are nearer to the point, than those which we form from the determinations of human laws, the greatest merit of which consists in giving rules which come as near our moral obligation as possible.

In vain do we look for consummate purity and perfection in human affairs. It is true, we may err even if we pay attention to our obligations; but the chance is much greater in respect of the directions of laws; for as it is the nature of human laws to contemplate only the general character of men, so the obligations they import are also of a general nature, and cannot be defined with exactness and precision in their individual qualities, with respect to manner, mode, time, extent, and other circumstances of the particular actions, as well as the situation, state and capacity of the agents. Actions consequently referred to human laws, must be deemed right or wrong in consequence of their general directions, which would have quite another aspect when referred to our moral obligation.

Sch. 1.—Laws, for instance, imposing taxes, contemplate that each member of the state contribute in proportion to his circumstances. But there is some property in a state which can be known, whilst there is a possibility that a vast deal is out of the reach of knowledge. If the rich man who has his property in funds, in bonds, mortgages, or cash lying by, follows the directions of law, he will contribute far less than he ought to do in proportion to his income. Would he consult his obligation, he would not suffer men in low circumstances to groan under public burdens, but would voluntarily come forward and contribute his share.

Sch. 2.—The honest man is studious to satisfy his perfect obligation, though others may not know or not chuse to exercise their perfect right; he wishes to live without fear and trouble, content that no man has a perfect demand upon him; whilst the dishonest takes advantage of the ignorance or easiness of his neighbour, or looks abroad whether he has not a legal excuse for rejecting his perfect obligation, or not fulfilling it in its full extent. Give this man the opportunity which laws have provided in case of public calamity as a remedy for reduced and distressed sufferers, he, perhaps a gainer on that very account,

count, at least not a loser, and fully able to satisfy his perfect obligations, will nevertheless evade the perfect rights of others, by deducting interest, paying in paper, &c. Behold the dishonest man! Let this character, deformed as it is, and made up of fraud, hypocrisy and dissimulation, be joined to the unjust man, and you have a character still more deformed than evasion and dissimulation can make it—a man of the most depraved and debased character. The dishonest man is dangerous; he preserves appearances, pretends honesty, is loud in professions of friendship and gratitude; he makes use of various windings, attempting, by all manner of plausible means, to impose upon good nature and credulity, and grossly disappoints your confidence. But the unjust man does all this, and he goes much farther; he breaks through all bars of human rectitude; he cares as little for appearances and the opinions of mankind, as he minds the internal excellency of virtue or the hideous deformity of vice. Mischief and violence are his element; to spread abroad oppression, confusion and misery is his delight: in short, he is to human society what beasts of prey are in the brute creation. Perfect rights, perfect laws, with all their sanctions, have no effect upon him. Mark the character of an unjust man as a monster, as a hydra of human society, and observe, that such characters are often above and beyond the reach of human laws!

The man merely just is made up of law; but you must resort to it to oblige him to satisfy his perfect obligations; public opinion has little or no weight with him. If law is on his side, you find him inhuman and unmerciful; he pushes his perfect right as far as the law gives him scope, is callous to the intreaties of the unfortunate, the industrious and sober husbandman, the honest trader—unaffected by the tears of widows, and deaf to the cries of orphans. Shielded by law, he is contented that his unreasonableness and inhumanity are not contrary, but in the proper form and according to the due course of legal proceedings. Remember, therefore, when hereafter we shall speak of the various degrees of deformity and immorality in bad actions, that those who break through the restraints of law are farthest from the lowest degree of commendation or morality, and therefore in a high degree immoral and reprehensible. There may be a difference with respect to

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the object of a transgression; but transgression, whatever its object may be, counteracts public good and defeats the salutary ends of laws in spite of all their restraints. The man who can export wool in opposition to the laws of the land, would as soon export powder to the enemy, if he could do it as easily. Set it down as an act of injustice. It is true, we have delineated these characters, perhaps, in their greatest deformity; but drop one or the other hideous trait, and you have still a multitude of actions, unjust, unreasonable and dishonest, degrading to the dignity of man! But the internally honest and reasonable man, what a glorious character! man indeed, a rational creature—rational in all his intentions, actions and pursuits! He is not contented with taking things as men, as human laws determine them; penetrating into the very nature of his moral obligations, he forgets servile fear, sordid interest, legal excuse; he sees no beauty in an action that is barely just or honest; wishing to be humane and reasonable to the utmost of his power, he contemplates the imperfect laws which do not command this or that action in this and that manner, and to such an extent, but enjoin to do all the good we can in the best and sincerest possible manner, at all times and in all situations of life. Yes, it is the man of probity and internal honesty who penetrates into the spirit and scope of his imperfect obligations, delights in the sight of its beauty, tastes the sweetness of a virtuous action, is above all low considerations, and principally concerned to do all the good he can in truth and sincerity. He penetrates into the recesses of the disconsolate, of poverty, want and human misery; anticipates application, and spreads abroad the balm of comfort and relief. This is the GOOD MAN of the ancients; this character, if enlightened by the heavenly precepts of christianity and actuated by those animating motives which flow from the infinite love of a reconciled God, is the *man without guile*!

External deportment, where it is enquired, whether we conduct ourselves with decency or in an indecent manner; whether our actions are proper or improper; is another source from which the degrees of rectitude and reprehensibility of human conduct may be determined.

Sch.—The rules of decency and propriety have a vast influence upon our actions, as a conformity to them adds much external beauty and ornament to our behaviour in the sight of others, and brings, as it were, to light the internal frame and qualities of the mind. It is true, all good actions have native beauty in themselves; but they are infinitely more beautiful and commendable, when performed with the greatest possible decency and propriety. We may anticipate the importance of decency and propriety in human conduct from this consideration, that we expect neither of them in brutes or in infant children, they being confined only to persons who can exercise understanding, reason and judgment. Is it therefore a wonder, that we form ideas of the internal state of the mind according to the degrees of decency or indecency discovered in actions?

Men differ very much in their ideas of decency and propriety, or the contrary; and it is a question, whether any fixed rule and standard can be given to enable us to distinguish truth from error?

To solve this question, let us define the ideas, and see whether they are founded or not founded in nature; if the latter is the case, we shall not only find rules, but rules as unalterable and unchangeable in the moral sense, as nature itself.

What is consistent with the nature of an intelligent being, and with its internal and external state, is naturally *decent* and *proper*; the contrary is naturally *indecent* and *improper*.

Sch. 1.—All just, honest, reasonable actions are naturally decent; the contrary naturally indecent: the former are consistent with the nature of a rational being, the latter are inconsistent therewith.

Sch. 2.—All actions consistent with the internal state of the mind, are naturally decent and proper; the contrary are naturally indecent and improper.

We expect another deportment in the learned than that of a man who is illiterate and rude. If a religious man should
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use the language of the prophane, it would be shocking; if the latter should speak religious sentiments, it would cause surprise, perhaps disgust. What would be shocking in a Christian, causes no surprise in a Jew. If Christians and Jews should bow before stone and wood, or adore the works of the hands of men, who could bear the sight? in a heathen it has so much of propriety, that we revere that sense of religion which the former perhaps have laid aside.

Sch. 3.—What agrees with the nature of our external state is naturally decent and proper; the contrary indecent and improper.

What a glory is added to an exalted state by affability, condescension and modesty, that virtue which becomes every state and condition of life! How amiable is the character of citizens paying respect to persons in public stations, loving and honouring them! How truly excellent these, if their personal virtues justify that distinction! What a beautiful sight to discover among fellow citizens, brethren, fellow students, an assiduity to please, to shew friendship, to be polite and civil to one another!—The rich man is only decent in a rich dress; the poor would make in it a most ridiculous figure. The strong, the robust looks best employed in hard labour, and carrying along with him the emblems thereof; a tarry vestment adorns the sailor, &c. The decrepid, the sick, the cripple may with decency apply for relief and support; a thing that would be a disgrace to human nature in a young man of strong constitution and in the vigour of health.

Sch. 4.—The sense of decency and propriety is an internal ingredient to many an excellent virtue. What is humility? I answer, a decent sense and opinion of our merits; for one who errs in defect is not the man of humility, but abject; he who has too great an opinion of his merits is arrogant and proud. A decent, a proper management of our affairs, with respect to expence, is œconomy, frugality; the excess, luxury, prodigality; the defect, stinginess, avarice, &c.

Sch. 5.—The just man exercises little decency, the honest more; the dishonest strives to have the appearance: the reasonable man and the upright give, what they give, with the best grace, reprove with sympathetic gentleness, &c.

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There are also ideas of decency and indecency, of propriety and impropriety, which, resting only upon the general opinions of mankind, are not only various and very different, but also of a most fluctuating and changeable nature. Here is not the question, whether an action is decent and proper, or the contrary, but whether, in human conversation, it is deemed such. If these ideas can constitute any thing, it is *fashion*, a thing most multifarious and arbitrary.

Ideas of propriety and decency, or the contrary, are the criterion by which we may judge of the taste and manners of nations, states, cities, classes and circles of society. As long as they lead to things not contradictory to natural decency, &c. so long we may follow them, and gently glide down the stream of public opinion. But if it be fashion to stigmatize good actions, or if they meet not with due commendation; if, on the contrary, bad actions, disobedience to law, &c. become fashionable, that is, if they are countenanced by a favourable opinion, farewell to good taste, to good manners. The manners of a people, a city, a society, are debauched: were it not that they carry their punishment already, we should say they are ripe for it. So much is certain, that many a one will end his career in ruin and in shame!

Another criterion of the different degrees of morality or immorality of actions depends on their effect and the intention of the agents. With respect to effects, which constitute what may be called the *material morality* or *immorality* of actions, little need be said, as they are very obvious to an attentive observer, and produce estimation rather as an effect, than the result of a judgment formed thereon. All, therefore, that we shall say, will be

be to call the attention of the reader not only to the proximate, but also to the remote effects of our actions. This will enable us to see the great excellency and usefulness of good, and the heinousness of bad actions.

Sch. 1.—Behold the happy influence which the good education of children has upon a parent! joy, contentment for the present, hope and confidence in approaching days of age and of infirmity; consolation in the hour of death! Behold the children happy, prospering, blessed by their parents, and blessed by God! They know the value of good education; they reap the fruits thereof in their children, perhaps more abundantly than their parents did; they constitute good education the chief inheritance of their offspring, to be conveyed unimpaired, rather improved, to the latest posterity! Reverse this portrait, and you form an idea of the high reprehensibility in parents, who, though it was in their power, have neglected this great duty. How exceedingly heinous in children, if they frustrate the fond endeavours, the sweet expectations of their parents, who do all in their power to promote their happiness!

Sch. 2.—Consider, that acts of fraud, of injustice and oppression, are felt by a fellow citizen through the remainder of his days; that widows, that orphans, that posterity are affected by them. The murderer kills a possible posterity; unjust wars produce calamities which involve the innocent with the guilty, and bring poverty and ruin upon those who are yet unborn. Slaughter and bloodshed prevent thousands from seeing the light. We may be dead and gone, but our good or bad examples still live, being copied by children and children's children. Is it therefore strange to read, that the Lord will visit the sins of parents in their children to the third and fourth generation?

But our principal object here is an enquiry into the *formal morality or immorality*; whether an action proceeds from intention, and with what degree of liberty that intention is pursued: for the greater our liberty is, the greater is the morality or immorality of our actions.

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As liberty comprehends spontaneity in the agent, contingency in the action, and a certain degree of distinct knowledge of the action previous to the commission or omission thereof, it follows, that we have three rules for determining the degrees of morality or immorality in human conduct:

1. The greater the spontaneity by which an agent acts, the greater is the morality or immorality of the action.
2. The greater the contingency of the action, the greater is its morality or immorality.
3. The greater the knowledge which an agent had of the nature and consequences of an action before the commission or omission thereof, the greater is the morality or immorality.

In consequence of these rules, we may form the following estimate of a variety of actions, with respect to their different degrees of morality or immorality.

In actions done or omitted in consequence of *compulsion*, there can be neither morality nor immorality, as there is no room for spontaneity in the agent, nor any contingency in the action.

Sch.—If a person is forced to do what is good, he can claim no merit; if he be compelled to do evil, he cannot be blamed. As necessity has no law, so it leaves no room for merit or demerit in actions.

Actions done or omitted under *constraint*, that is, where the agent is in such a situation that he has but to chuse between two or more actions proposed, where consequently but one or the other alternative is left, have morality or immorality in greater or less degrees, as there are more or less alternatives for choice. Here spontaneity and contingency are forcibly limited.

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Sch.—A person intrusted with money, for instance, may be attacked by a robber, who proposes the alternative, deliver or die!

Actions done or omitted under *restraint*, that is, actions determined, commanded or forbidden by laws, admit of a high degree of morality or immorality. Here spontaneity and contingency are limited in conformity to the rules of right; liberty, consequently, is not impaired, but directed. There is as much room for spontaneity and contingency as a rational man can wish; his will is not hindered, but led to that which is good; the action is entirely *voluntary*.

The more voluntary actions are, the higher is the morality; for the restraint is less, and consequently spontaneity and contingency greater.

But it holds not good, that bad actions are more immoral in consequence of their being more voluntary and under less restraint. On the contrary, they are more obstinately wicked, as no consideration, not even restraint, can resist them.

Sch. 1.—Remember the character of the unjust man already described.

Sch. 2.—Let it be observed, that where the immorality of actions is affected by restraint, either of law, advice, example, or external motive afforded to the agent, it is always greater than where no restraint takes place, and that the degrees of immorality are in proportion to those of restraint. In these cases, therefore, the degrees of morality and immorality do not keep pace in direct proportion; that is, from the highest morality of good actions, we may not immediately infer the highest immorality in those actions which are opposite to them. In some actions, therefore, there will be occasion only to determine the degrees of morality, and leave the reader to judge of those of immorality.

Actions

Actions not affected by restraint, have a higher degree of morality than those which are done or omitted in consequence thereof.

Sch. 1.—A person may do a good action because the law commands or a friend advises its performance: the example of others may excite us, or motives afforded make it eligible. In all these cases the agent may have merit, but the law, the friend, the example, the persons affording the motives have their respective share in it.

Sch. 2.—Suppose a person does a good action from an inward desire to do what is right, independent of any other consideration, will he not be entitled to all the merit?

The more internal motives we have for doing or omitting a certain action, the higher is the degree of its morality; for the agent has a greater share of distinct knowledge than if he were actuated only by external motives.

The more external motives an agent has before he does or omits an action, the less are the degrees of morality, and the greater the immorality; the former is in consequence of less knowledge, the latter of more obstinacy in the agent.

Sch.—It will therefore not be difficult to see the far greater excellency of honest actions before those which are merely just, that of the reasonable before the honest, &c.

Actions done or omitted upon motives taken from the divine perfections, have the highest degree of morality.

A habit of acting upon motives taken from the perfections of God, is called *piety*, the highest degree of morality, the greatest excellency of virtue within the compass of natural principles.

Sch.—Christian piety is still of greater excellency and purity, because the motives, taken from the infinite love of God declared in the *work of redemption*, are not only the purest
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and most exalted, but proceed from the purest sincerity of the heart, from the principle of faith.

Actions *complicated* or *compound* contain as many motives as there are *simple* actions contained in them; they are therefore of a higher degree of morality or immorality than a simple action consisting but of one or a few motives, because the knowledge and the spontaneity in the agent are greater.

Sch.—There is certainly more merit in an agent who procures and preserves an estate by assiduous application to the toilsome duties of his calling, than in him who has gained a high prize in a lottery, or is become heir of an estate. There is also a higher degree of criminality in the act of taking away a person's life, when preparations have been made for its perpetration by way-laying him, by resorting to a particular place, by selecting the time most suitable for producing that effect, than there is when that act takes place on a sudden, unexpectedly, unpremeditated, in the heat of passion, &c.

Deliberate actions have a higher degree of morality or immorality than the *inconsiderate*; for, as the former are done or omitted in consequence of previous consideration, the agent acts with a higher degree of knowledge and spontaneity than can take place in the latter, which are done without previous consideration.

Sch. 1.—Actions may be deliberate or inconsiderate with respect both to *instituition* and *execution*, or only with respect to the one or the other.

Sch. 2.—We may erect works for public defence upon a premeditated plan, and in case of necessity make the most vigorous resistance; or we may abandon them, or give them up without any exertion at all, or be guilty of imprudence and indiscretion in conducting that defence.

Sch. 3.—A post may be taken in an improper place, or may not be sufficiently secured; still, upon an attack, the best exertions may be made to resist an invading enemy.

Sch. 4.—To act with deliberation, we must institute our actions in the best possible manner, penetrate into their nature

ture and tendency, and spare no pains to carry our well-digested plan into execution.

Sch. 5.—How requisite is deliberation in the whole tenor of our conduct! How much should we attend to the consequences of our actions! How careful ought we to be in conducting them in conformity to our moral obligation, as they have the greatest influence on our character, our repose, our happiness, and the felicity of mankind!

Remember that one inconsiderate act can ruin your happiness, the peace of your mind and your character: consider how deeply your parents and relatives are interested; how deeply afflicted if their fond hopes and expectations are blasted by an inconsiderate conduct, to which youth is found to be particularly inclined.

We are said to be the *author* of an action, when its existence or non-existence may be referred to our spontaneity: as this may be the case in various ways, it follows, that we may be authors of actions in different respects. We may be the immediate cause of an action, or be it in a mediate manner, by means, contrivances, or the assistance of others. Hence it is, that actions may be distinguished into *immediate* and *mediate*: of the former we are the *immediate author*, or the *immediate cause*; that which serves as a mean to produce the latter, is called the *instrumental cause* thereof, in contradistinction to him who has given occasion for it, and thereby must be considered as the *principal cause*. So that in all mediate actions there is a principal and an instrumental cause.

But, as inanimate things, or brutes, or moral agents may be used as means, we think it proper that the appellation of instrumental cause should be confined to means not enjoying free agency, and that moral agents, instrumental in actions designed by others, should be called the *proximate*, the latter the *moral cause* of them.

(omit the principal cause) Thus,

Thus, in mediate actions effected by the assistance of moral agents, we distinguish the moral and the proximate cause thereof. And it becomes a question, what share of commendation or reprehensibility pertains to the one and the other? for if things of an inanimate nature or brutes serve as means to effect pernicious designs of others, no responsibility can be expected on their part; the whole blame must fall upon the principal or moral cause of the action produced. But it is a very different case, where a moral agent, responsible for his conduct, presents himself, or suffers himself to be made an instrument for doing actions designed by another: in a good action he must have merit, in a bad one he is reprehensible, as in both cases the actions are referable to his will. He, therefore, *except under compulsion*, will be answerable for the consequences, and the action, with respect to him, will have certain degrees of morality or immorality.

Mediate actions have a less degree of morality or immorality than the immediate. These are done without any restraint, from internal motives, consequently with a greater degree of spontaneity and contingency; the former are done by external motives, which cause a certain degree of restraint, therefore with less spontaneity and contingency.

The moral cause acts with a higher degree of morality or immorality than the proximate; for, with respect to him, mediate actions must be considered as immediate.

Sch. 1.—Here the axiom holds good, what one causes to be done by another he does himself.

Sch. 2.—We may become a moral cause in actions done or omitted by others, in different respects and degrees; for instance, by command, advice, consent, approbation, connivance,

connivance, participation, by concealing, not hindering, not revealing, &c.

Sch. 3.—Thus we may become the moral cause in actions effected by things of an inanimate nature, not only when we design the effect, as by laying traps, fixing guns, &c. but likewise when we leave them in a condition that is obviously dangerous; for instance, leaving fire-arms carelessly in the reach of children, letting a ruined wall stand, &c. The same is the case with brutes; we may dress them, or set them on to do harm, or let them run loose, though we know that they are mischievous.

Sch. 4.—A person may be considered as the moral cause of an action in general, but not of every particular thereof: for instance, one ordered or advised to beat another, may proceed too far, break limbs, or destroy life. In such cases the moral cause of the action cannot be responsible for outrages committed by the proximate; it is the latter that must be considered as the moral cause of all that is done by excess.

Sch. 5.—There are cases which require undefined, unlimited power; as, the conducting fleets and armies. Here the principal cause of a war must be considered as the moral cause of all that is done in consequence thereof. The inhuman mariner or soldier is far from being excusable in any act of oppression and injustice: commanders deserve the highest punishment, and the execration of mankind, for having made an improper use of the powers intrusted to them. But, as all the glory of what fleets and armies have accomplished is humbly attributed to the wisdom, the unconquerable power and greatness of the government, which has laid their foundation by instituting and planning the operations of a war; so certainly all outrages, all acts of cruelty, oppression and injustice, done on the watery element or in the different quarters of the globe, must and will be brought to the account of the principal author of that war; he is the principal, the moral cause of all! Is the glory of a conqueror, therefore, an object of envy? or can acts of injustice constitute true glory?

Actions done or omitted under collision, are not as high in morality or immorality as those in which no collision

collision has taken place; for in the former there is less spontaneity and contingency.

An act of the will, referred to a contemplated effect, is called *intention*; the effect contemplated is styled an *end*.

Ends are distinguished into *primary* and *secondary*: for the former an agent would have acted independent of any other effect; for the latter he would not have acted at all, if it had not been blended with another more desirable object. In this case, our intention with respect to the chief end is called *indirect*, in the former it is *direct*.

Sch. 1.—The primary end of war is to enjoy peace, to be free from the insults and vexations of a restless nation: representations and negotiations, conducted with moderation, prudence and justice, witness the direct intention of these proceedings; their end is to prevent war and to establish peace: but suppose armies to be raised, magazines to be laid up, &c. for the same end, the intention may be the same, but it is indirect: even war may be declared, battles fought, towns sacked, blood spilt, for obtaining an end which by gentle means was not attainable. Should we suppose a nation so cruel as to make destruction, plunder and bloodshed their principal object? should we derive all these calamities from direct intention? No, if there is yet a sense of honesty, justice or humanity, these things would not take place had they been avoidable: in all these proceedings the intention is indirect; it is to compel an enemy to terms of a lasting peace.

Sch. 2.—Consequences not intended, which may flow from our intentional actions, as well as those which were intended, are said to be *admitted*. Thus the destruction of lives, of property, and the dreadful catalogue of the most horrid transactions during a long and bloody war, are said not to be intended, but admitted.

All intentional actions, both direct and indirect, are of a very high morality or immorality; for they are
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acts of the will—actions complicated, which presuppose a high degree of spontaneity and knowledge in the agent.

From this very cause it is evident, that actions done or omitted by direct intention are very considerably higher in morality or immorality than those which proceed from indirect intention.

Sch. 1.—The destruction of a city or buildings consequent upon direct intention, is the height of cruelty and inhumanity, causing our detestation; if the strength of a place, the vigorous resistance of a garrison, renders it unavoidable, it causes pity and regret.

Sch. 2.—Admissions have generally reference to the unfavourable consequences of intentional actions: according to the definition given of them, we have followed the authority of some authors rather than our own judgment. Names and terms may serve to palliate the outrages and horrid calamities inseparable from the complicated operations of war; but the natural and inseparable connection which they have with the intention of the author or authors of war, and their horrid effects, will easily discover to the unprejudiced mind their high immorality. Let the man who sets states and nations at variance, feel the whole weight of his guilt; let him have no excuse before his conscience and the world, that inhumanity, bloodshed, conflagration, &c. are things admitted only, things not intended, consequently not imputable. No, if unintended consequences may as well flow from our actions as those which are intended, they certainly ought to be taken into consideration before we determine upon an end; they consequently, considered or not considered, come within the compass of at least indirect intention, and as intentional acts, actions of the most direful effects, must have a high degree of immorality.

Sch. 3.—We might retain the term admission, to denote unforeseen consequences happening by accident; for instance, the accidental blowing up of a powder-magazine, and the death of many persons occasioned thereby.

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There is an inconceivable variety of actions by which ends may be attained; such are called *means*. Assiduity in performing actions, by which a mean may be obtained, is called *diligence*, a most excellent and necessary virtue; the contrary is *negligence*, a most despicable and pernicious vice.

Sch. 1.—If assiduity in actions intended and calculated for the attainment of ends, which are objects of laws and our moral obligations, constitutes diligence; we may see the dangerous and deformed nature of *idleness*, which keeps mankind busied in things which answer no beneficial or salutary end.

Sch. 2.—Idleness ought to be well distinguished from *amusements*, which are indulged with an intention to afford a certain relaxation to the mind, that it may be thereby refreshed and invigorated to pursue the ends of our calling with more readiness and with greater effect.

Sch. 3.—Amusements which spring from another intention, and are not calculated or used for that purpose, are temptations to idleness, nurseries of vice, the enemies of virtue; they rob us of the most precious gift of nature, they rob us of our time.

That act of the will by which we determine the execution of an action, is called *purpose*; purpose referred to the end proposed is stiled *design*.

Sch.—Actions, with respect to purpose, may have a most amiable aspect; but referred to the design, they may be of the greatest criminality and deformity. We may be assiduous in professions and external acts of friendship, give entertainments, &c. the design may be sordid self-interest; or all these endeavours may be used in order to make us an accomplice in an act of treason, to prevail with us to betray the secrets of our cabinet; or the design may be against the virtue of a person.

Actions of purpose and design must be of high morality or immorality; they are complicated actions, which presuppose a high degree of knowledge and of spontaneity,

spontaneity, and have a place among the most studied and refined intentional actions.

Sch.—As we are bound to obey the law of nature, it follows that we are also bound to make use of all the means in our power in order to qualify ourselves for that obedience; in all our actions, therefore, it ought to be our invariable purpose and design to obey the natural laws, to obey our God. This will be a shield against the innumerable temptations of flattery, sycophancy, hypocrisy, &c. so prevalent among the children of men.

MORAL RECTITUDE is the agreement of our actions with the laws of truth and morality; for our moral actions depend upon the understanding and will; they consequently are right, if the acts of both understanding and will are right. This will be the case if the former agree with the laws of truth, the latter with the laws of morality.

Sch.—We have not then in vain bestowed our attention upon the principles hitherto explained; for, as they are the eternal and unchangeable laws of truth and morality, they must be considered as the basis and the infallible criterion of rectitude in the conduct of men.

Fault is the general term whereby we designate a defect of rectitude. Such a defect may proceed from an act of the understanding or the will.

A fault that takes rise from a defect of the understanding renders the agent *culpable*; that which proceeds from a defect in the will is an act of *malice*.

A knowledge of the nature, effects, and other consequences of actions, may or may not be in our power: in the former case *ignorance* is *vincible*, in the latter *invincible*.

Faulty actions proceeding from invincible ignorance cannot be culpable, much less malicious.

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Culpable

Culpable actions proceed from vincible ignorance, where either no idea is formed of the action, or where the ideas are wrong.

We may act culpably from inattention, improvidence, precipitancy, or carelessness; actions, therefore, may be more or less culpable.

Sch. 1.—We are guilty of *inattention*, if we do not sufficiently consider the action in general; we act *improvidently*, if we proceed to action without considering the consequences; we are charged with *precipitancy*, when we take no time for reflecting on the proper mode and manner of conducting actions or for considering their consequences. The *careless* act without any consideration at all.

Sch. 2.—In culpable actions, therefore, the agent omits what is necessary for obtaining a salutary end: hence we may draw the conclusion, that all culpable actions proceed from negligence.

Malicious actions are *wilful*, for they proceed from defect in acts of the will.

In malicious actions the agent acts both *wittingly* and *willingly*, as the phrase is; for the faults of the will have their origin in the understanding.

Malicious actions are therefore of higher immorality than the culpable, for they are acts of purpose and design; their effect is bad by intention, and their malignity is internal.

Whenever actions are so conducted that their outward complexion is contradictory to the internal acts of the mind, we are said to *dissemble*.

Acts of dissembling may be intended for good and allowable ends, and are in some cases necessary; as, *feints* and *stratagems*. But as many acts of malice are perpetrated under the cloak of honesty, of friendship, &c. it follows, that nothing short of absolute necessity
can

can justify dissembling even for justifiable purposes: we betray in a manner the sacred cause of virtue, if we are the means of putting it under any kind of suspicion: the man truly virtuous will avoid even the appearance of evil.

Sch.—Allowing that feints and stratagems of particular kinds, and to certain extent, may consist with the principles of rectitude, we must observe, that there are seldom situations in life which can equally justify acts of dissembling. From an enemy we expect nothing but acts and designs of hostility; as we may place no confidence in him, he cannot betray it. We may therefore draw this conclusion, that acts of dissembling are not of an innocent, but of a malignant nature, whereby confidence, for which we have given occasion, is disappointed and betrayed.

An act of dissimulation, with design to betray confidence, still heightens the wickedness of a malicious action; for there is a new determination of the will, consequently more motives, more knowledge, besides the more pernicious effect and the greater danger to which it exposes. An act so conducted may be called an act of *clandestine malice*.

Sch.—There is a great difference between murder and assassination; between the taking away one's life by a weapon or by poison, &c.

There is also a difference between the open attack upon a person's reputation, and the clandestine assassination of his character.

The action wittingly and willingly done contrary to law and to obligation, is of *direct maliciousness*: there is a possibility for an action which has been done culpably to become malicious, by approving and justifying it, and glorying in its effects. Such actions we call acts of *indirect malice*.

Sch.—We may inadvertently hurt a person, and signify our regret; or we may rejoice and shew delight in the effect.

In

In the former case the action at most renders the agent culpable; but in the latter he stamps his will and approbation upon it, after which the action becomes wilful and malicious.

By *fortune* and *misfortune* we understand an unforeseen concurrence of causes, which have a *favourable* or an *unfavourable* influence on our happiness.

By *accidents* we understand the effects of unforeseen causes.

Fortune and misfortune, and accidents, do not admit of any degree of morality or immorality, for ignorance in such cases is invincible.

Sch.—What a great abuse is made of the terms misfortune and accidents? How often must they unmerited stand for the natural effects of want of rectitude? The natural consequences of folly, inattention, improvidency, precipitancy, carelessness and wickedness make up the greatest part of *accidents* and *misfortunes*! Comparatively few houses are destroyed by lightning; and is it not the case with respect to other things, as poverty, captivity, &c.?

CHAPTER V.

Of moral imputation.

SINCE actions admit of various degrees of morality and immorality, according to the mode and manner in which they are done or omitted, as well as in consequence of their effects and the intention of the agent, it follows, that it is impossible for us to form a judgment of the proper share of merit or demerit of particular actions, unless they are represented or considered under their individual circumstances.

Actions

Actions considered under individual circumstances are called *facts* or *cases*.

The most principal circumstances of facts are their effects and the intention of the agent, for to them all others have reference.

Sch. 1.—The first case of fratricide is thus recorded: *Cain rose up against Abel his brother, and slew him.* If we attend to the effect, we shall see that it was an act of violence; he *rose* and *slew him*, not accidentally, not in a sudden phrenzy of the mind, but deliberately, intentionally and maliciously. *Cain was wroth, and his countenance fell*; not that Abel gave him cause, or provoked his anger; no, Abel's innocence, his virtue was the cause; it was, that the Lord had rather respect to his than to the murderer's sacrifice. What an aggravating circumstance! they were brethren, the first of brethren!

Sch. 2.—Seeing an indiscriminate concourse of people, our first enquiry is concerning what has happened. Being told that a man has drowned, we not only enquire who he is, when the event took place, when and where the body was found; but principally whether the fact has taken place from his or another's intention, or whether it is an accident.

If we give a detail of the circumstances of a fact, we are said to give a *state* thereof.

Sch. 1.—In stating a case, every circumstance, great or small, even the posture, countenance, and expressions of the agent, if any were made, the occasion, origin, progress, manner, mode and time, &c. of the action, ought to be most carefully particularised, that thereby the intention of the agent may be made fully to appear: for the least of these circumstances omitted or misrepresented may give the fact, particularly the intention of the agent, a different, perhaps a most unmerited complexion; and our judgment formed upon such an imperfect or misrepresented state of the fact, may be erroneous and highly unjust.

Sch. 2.—Such imperfect and mistaken statement of a fact has obtained the name of *error of fact*; and when a declaration is made that such an error has taken place, it is called an *exception to the fact*.

Sch.

Sch. 3.—Witnesses in judicial proceedings ought to be extremely careful to testify concerning all circumstances of which they have any knowledge, just in such a manner as they know them, lest they render themselves responsible for acts of oppression and injustice, as moral or proximate causes of them.

Sch. 4.—False representations of facts must be considered as the principal sources of the innumerable acts of detraction, calumny and slander, so destructive to the peace and harmony of social intercourse. How careful should we be neither to originate nor to propagate misrepresentations of this kind, or to form a judgment thereon to the injury and detriment of our neighbour!

A fact is said to be *imputed*, if a declaration is made that it is referable to the spontaneity or will of a certain agent. As referring actions to the will of a person is declaring him the *author* thereof, we may define *imputation of fact* to be the declaration that a certain person is its author.

Not only actions, but also their consequences, that is; their merit or demerit, may be referred to the will of their author. A declaration that certain merits belong to a fact, is *imputation of law*; because it is the peculiar province of laws to determine the merits or demerits, the rewards or punishments due to actions which come under their cognizance.

Sch.—Imputation of law, whether in judicial proceedings or in common conversation, should therefore be according to the directions of laws and consistent with the degrees of morality or immorality of facts, otherwise an *error of law* will be committed. A declaration that such an error has taken place is styled *exception to the law*.

Moral imputation comprehends both imputation of fact and of law, and may be defined a declaration that a certain fact and its consequences are referable to a certain person as the author thereof.

Sch.

Sch. 1.—In moral imputation, therefore, it is not so much the question, whether actions have been done or omitted, but principally whether they proceed from the intention of a certain agent.

Sch. 2.—Hence it appears, that no facts can be imputed to persons who cannot exercise understanding, reason and judgment; for they cannot exercise will, nor act from intention.

Sch. 3.—Neither can any other but moral actions be imputed, for they only depend upon the will or intention of agents.

Sch. 4.—Natural actions cannot be imputed farther than they admit of spontaneity; that is, only with respect to time, place, mode and manner.

Actions referable to the will of an agent will be imputable as far as that will is free.

Sch. 1.—Actions done or omitted under compulsion cannot be imputed to the immediate agent thereof, but must be wholly charged to the moral cause of that compulsion.

Sch. 2.—Actions done by instrumental causes, are imputable to those who are the principal causes thereof.

Sch. 3.—Actions done by a proximate cause are imputable both to the proximate and to the moral cause.

Sch. 4.—Actions done by brutes, by infant children, by lunatics and madmen, may be imputable to moral causes, as far as they are referable to their will; for instance, if we know their mischievous nature, and do not our best to keep them from doing harm.

As actions, with respect to the degrees of liberty, have likewise their degrees of morality or immorality, we may conclude, that imputability of actions will be in proportion to their degrees of morality and immorality; for both have their foundation in certain degrees of will and intention.

Sch.—If we value a good conscience, and wish the happiness of preserving it pure and undefiled, we must in all our conduct pay the strictest attention to the laws of morality, as they are the rule and standard of imputation.

From

From the preceding proposition it follows, that we may distinguish facts in perfect similarity to the distinctions observed in moral actions, and assign their proportionate degrees of imputability in the following manner:—

Voluntary facts will be more imputable than the involuntary, the immediate more than the mediate, the intentional more than the unintentional, the deliberate more than the inconsiderate: there is more heinousness and guilt in an unjust than in a dishonest fact; and a malicious fact is more criminal than a culpable one, &c.

Sch. 1.—As facts are a species of moral actions, it is easy to conceive, that to determine the imputability of the former, we have only to attend to the morality or immorality of the latter; substituting imputability for morality or immorality, and fact for action.

All imputation, whether moral, or that of fact or of law, is conducted in the way of syllogistic argumentation.

Sch. 1.—For instance: imputation of fact may be conceived to proceed in this form:

To whose will the existence or non-existence of the fact B is referable, he is the author thereof.	He who maliciously has killed Clodius, has committed murder.
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It is to the will of A that the fact B is referable; therefore A is the author of fact B.	Milo has maliciously killed Clodius; therefore Milo is guilty of murder.
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Sch. 2.—Imputation of law is by this syllogism:

Whatever fact is of such a particular nature, to it belongs such rewards or punishments.	Murder deserves capital punishment:
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But the fact B is of that particular nature;	The death of Clodius is murder;
--	---------------------------------

Therefore to the fact B belongs such rewards or punishments.	Therefore the death of Clodius calls for capital punishment.
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Sch.

Sch. 3.—Moral imputation comprehends both imputation of fact and law, and is in this form:

Whoever is the author of fact M, to him belongs the punishment D:	Whoever has committed the murder of Clodius, he is to be punished with death.
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Milo is the author of fact M;	Milo has committed the murder of Clodius;
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Therefore Milo deserves the punishment D.	Therefore Milo must be punished with death.
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Imputation may be true, false or dubious: for syllogistic argumentation may be one or the other, or it may depend upon premises, from which only a probable conclusion may flow.

If the fact be not true or certain, imputation cannot be the one or the other; for if one of the premises be destitute of the criterions of truth and certainty, the conclusion must be defective accordingly.

Sch. 1.—Suppose a trinket be missing, and no person known to have been in the room in which it was kept but a servant of the house, is it not probable that the servant has taken it away? An imputation upon these probable circumstances is dubious, for the trinket may be mislaid or taken away by another.

Sch. 2.—Imputation may be in a high degree probable, and come near to certainty itself, still it is dubious and may be false, for the greatest probability may be so. Add to the former instance, that the servant is wavering in his apology, that the article is found in a pocket of his coat in the room allotted to him; still another person may have put it there; or if not thus found among his things, the master of the house, who never concerned himself with things of this kind, may have lent it to a neighbour.

Sch. 3.—Suppose the servant confesses the fact, tells where the trinket is; or if witnesses have seen him take, or sell, or hide it away; the imputation will be certain.

Sch. 4.—*Suspicion*, in a certain sense of the term, has reference to probable imputation of facts: when it becomes a propensity

penalty or a passion of the mind, it is a most disagreeable source of lasting inquietude to the heart in which it dwells; besides, it is a mortal enemy to peace and harmony, the greatest blessings of families, of human intercourse, and all social connections; it destroys character, wounds reputation: actions the most innocent are construed into evil designs: it traduces the cause of truth, of virtue, of God and man.

Neither is imputation true, if merits or demerits are imputed which do not belong or are disproportionate to facts.

Sch. 1.—Human legislators, therefore, ought to establish in the sanctions of their laws proper gradations of rewards and punishments, adapted to the respective degrees of morality or immorality in actions; for how can imputation be true, if its foundation is defective or false?

Sch. 2.—In forming our judgments concerning the conduct of men, whether they are our superiors, equals or inferiors, we should never lose sight of this necessary criterion of true imputation; for how can we avoid scandalous flattery, envy, detraction, insolence and severity, if we pay not attention to the rules of rectitude, to the degrees of morality or immorality in actions? We must make a difference between riches, power, connections, and between true greatness and real goodness. We must esteem men by their virtue, humanity, prudence and industry: not by appearances nor passion, not by the prevalent opinions of mankind; but truth must be our guide, where justice and a good conscience are the object.

Sch. 3.—If an innocent man should suffer public punishment, and the guilty be rewarded, would it not be deemed an act of most horrid cruelty and injustice? Can we therefore be innocent, if we despise or disesteem a good man because he is poor, has no connections, no great expectations; and applaud the noisy, turbulent, extravagant and wicked man, because he is rich, &c.?

As partiality and respect of person find no place before God, so they should find none in courts of justice. It would be a great happiness to mankind if they were entirely banished from society.

He

He upon whom imputation of fact depends is the *accuser*; and the person who imputes law exercises the office of a *judge*.

No accusation can be just and unexceptionable, except the fact be cognizable, true and certain.

Sch.—Information is a kind of accusation.

False accusation may be culpable or malicious.

Moral imputation cannot be just where imputation of fact is unfair or unjust; for the author of the fact not being ascertained, the merits or demerits of actions cannot be referred to the intention of an agent.

Neither can moral imputation be just, if the proper merits and demerits which belong to facts, and their authors, are not assigned.

Sch. 1.—As laws are to determine the merits and demerits of actions, it is evident, that no just imputations can be founded thereon, except they be just and wisely instituted.

Sch. 2.—No people can be happy without a wise and just administration of laws.

Hence it appears, that the judge must understand and be able to interpret laws; that he must have full and sufficient information of facts; that he be careful that evidences be examined, their testimonies compared and scrutinized according to the necessary criteria of truth, otherwise he may become culpable: if any thing is omitted with design, he is guilty of malicious partiality and injustice.

By *relative equity* we understand a strict observance of the various circumstances of facts, which may serve to mitigate or aggravate their guilt, or to determine the degrees of commendation in actions done conformably to laws; for human laws cannot provide for all possible cases, and facts of the same kind may assume different complexions

complexions under different circumstances, and be more or less referable to the intention of the agent. But as this ought to be the principal consideration in imputation, it follows, that in just imputation relative equity is to be observed.

Sch.—On this account the laws of the land very wisely leave power in the executive part of the government, to suspend, remit, or to mitigate punishments in certain cases.

Justice is another requisite in imputation; for, as by its general definition it is a habit of doing just actions, there cannot be a better place for its exercise than where we have to determine merits or demerits according to the eternal laws of justice and of equity. The idea of justice being more specifically confined to perfect laws defining the perfect rights of men, which require that we give every one his due, is more generally known by the definition, *that it is that virtue by which we give every one his due.* Thus justice commands, that good men be rewarded and evil doers punished.

Sch. 1.—Though both these definitions be true, and the latter most generally adopted, still it must be confessed, that our ideas of that virtue are such that we cannot see its loveliness and the benignity of its nature so easily as we do of other virtues, which in God are infinite and unspotted attributes of his essence, and in man the highest degree of excellency and perfection. Justice, with respect to our sensibility, has the appearance of severity, nay, is often taken by mankind for severity itself. Hence it is, that tender minds cannot reconcile infinite inflexible justice in God with his infinite love and mercy. But there is no such unfriendly ingredient in divine justice, nor in justice that is to be administered by men. The consciousness of our guilt before God must be assigned as one of the causes of our misapprehensions with respect to this his unspotted and infinite attribute; and the frequent examples of severity which we see in the exercise of justice by human authority, are another cause why we are very apt to form unfriendly conceptions of its nature.

Sch.

Sch. 2.—It is on this account that we feel a predilection for the definition which some writers have given of justice, calling it *kindness administered according to the law of wisdom*. This definition fully answers the idea of justice, and is very well calculated to remove false impressions from our minds, and to obviate every unfavourable construction. It leads us immediately into a sense, as it were, of the benign nature of divine justice, and the necessary and beneficial influence of this virtue on the general happiness of mankind. It is so far from severity, that it is kindness itself.

Sch. 3.—*Kindness*, a promptitude to render others happy, being in God the natural effect of his infinite love to his creatures, is the essential and invariable scope of all that comes under the direction of human laws; for they have for their end the general felicity of society. To whom should we look for benignity, for kindness, but to God, who is love itself, and to those fathers of their country who should in all their pursuits have for their principal aim the happiness of mankind? Is it a wonder, therefore, that justice is a property, an attribute of the divine essence, and its administration a particular prerogative of governments among men?

Sch. 4.—But have we not to look for that benignity in perfect agreement with wisdom? As by *wisdom* we understand that science which teaches the best ends, by the proper use of the best means for the attainment thereof, the law of wisdom will direct that kindness be not dispensed indiscriminately to offenders as well as to faithful observers of law, but in such a manner that thereby the general happiness of mankind may be obtained. This cannot take place where the laws are not duly obeyed; but obedience is to be incited by rewards, and by punishments inflicted upon the disobedient. Therefore, true wisdom in God and in all governments requires that kindness should be extended to all who conduct themselves conformably to law, and be withdrawn from those who act contrary thereto.

In the exercise of justice, therefore, we may not confine our consideration to the punishment of the wicked, who have forfeited all claim to kindness, but should principally attend to its benign influence on the happiness of society

society in general. Justice requires that the disorderly and wicked experience the rigour of law; and that the good and the upright may enjoy its protection.

Sch. 5.—Lest there still remain something in our conceptions concerning the nature of justice, leaving it liable to unfavourable constructions, it ought to be considered, that this is a necessary consequence of the natural imbecility of human administrations thereof; for from this our ideas of justice are commonly formed, and must be imperfect, as they furnish but seldom examples of rewards, whilst, on the contrary, they frequently exhibit punishments to public view. Hence it is, that we see justice but on its dark side; not in the full display of its beauty and loveliness, but in its pitiable and dreadful effects upon the disobedient and wicked transgressors of laws.

We may add, that the human heart, so very apt to disregard blessings which we enjoy every day, is very seldom properly affected by the rewards which are consequent upon obedience and strict observance of laws. God is just; and the day will come when no labour, no pain, no suffering, no endeavour to do our duty, will remain unrewarded; and even now his blessings are innumerable upon his children; and in the dispensations of his providence we often see those blessings withdrawn from nations, nay, from individual persons, as the just consequences of their disobedience and vices, and the particular tokens of his displeasure. How necessary, then, that we form our ideas from the administration of justice by divine providence, and the declarations which God has made by revelation, of its full and glorious display that shall take place when he will judge the world in righteousness!

And are we not guilty of inconsideration, if even in human administration we do not see the rewards which are a natural consequence of obedience and a faithful observance of laws? Is not the security of our life, property and rights, which laws afford to faithful observers, a great, nay, the best, the most valuable of all rewards? Is not a good character, and the favour of the virtuous and upright, a great and desirable good? Add inward peace and tranquillity of mind, the effects of a good conscience, what more can be expected that the world can give? The reward of virtue exceeds the wisdom and power of men;

men: it is the prerogative of God. Men, as they cannot see what is in man, cannot give virtue its due reward. Since they cannot with precision discern the virtuous and upright man from the deceitful and the hypocrite, would not false pretenders run away with the rewards of virtue, and virtuous modesty remain neglected? Suppose even that the inward principles and springs of actions could be known; suppose that the stock of a state be inexhaustible for rewarding every act of obedience to law; what has the world besides riches, honours and preferments? Can these things be rewards for virtue, which may be acquired without an act of our own, or by acts of fraud and injustice, and possessed by fools, monsters and oppressors? The virtuous man, if he possesses them, can add lustre to them; they receive desirableness and lustre by the virtuous possessor, and the use he makes of them.

As long as men of doubtful character enjoy riches, fill offices, or are elevated to high stations, so long no riches, no honours, no preferments can in themselves be considered as rewards; they cannot add any thing to the internal beauty and excellency of virtue. Virtue is its own reward in this life—an inexhaustible source of blessings indeed! If the world presents you with instances which seem to render this axiom doubtful, take them for incontrovertible arguments, that there will be another state of existence, where justice will be manifested in its full glory, and every virtuous act of this life will receive its due reward. God is just, infinitely righteous!

The scope of the exercise of justice is, that the laws be obeyed, and the happiness of mankind promoted and preserved. Hence it is that it is said to be *distributive*; because it distributes rewards to the obedient and punishments to the disobedient.

Distributive justice is therefore distinguished into *remunerative* and *punitive*.

Sch.—Some call punitive justice *vindictive*, but this term appears to us to be rather inconsistent with the general nature of the justice of God, and that which ought to be exercised by men. How can revenge be consistent with kindness?

By

By *sentence* we understand the result of moral imputation, declared by him who performs the office of judge, concerning the quantum of imputability in actions, according to the degrees of morality or immorality, and the share of reward or punishment due to a certain fact and its author.

Sentence includes a favourable or unfavourable estimate of the conduct of the agent; such an estimate constituting honour and approbation, or blame and disapprobation, it follows, that honour and blame must be considered in some respect as reward or punishment.

Sentence is just when it results from just imputation; no sentence, therefore, will be just, where the observers of law meet not due honour, and the disobedient marked blame: where the reverse takes place, it is certainly false and highly criminal.

Sch. 1.—How careful, therefore, should we be to set up for judges over the conduct of our brethren, whether they be our superiors, equals or inferiors? How important a task is laid upon us, when the cause of truth and humanity calls us to the performance of this office, as there is great danger that we may injure both that very cause and our fellow creature? Nothing is of a more delicate nature than character. How often, like him who travelled from Jerusalem to Jericho, is our character wounded and laid prostrate? How general is the case, that not only the priest and levite, but the generality of mankind pass by a wounded character? and how seldom is a Samaritan found to heal or to relieve it?

Sch. 2.—But how much more important is this consideration to all who are concerned in judicial proceedings, the accuser, judge, witnesses, jurors, &c. where there is danger even from the imbecility of human nature, that the sacred cause of justice may be betrayed or perverted! Beware of partiality, whether of a culpable or a malicious nature. May such proceedings never find place in courts where the sword of justice is unsheathed to execute wrath upon evil doers!

Where

Where sentence is given according to certain laws, there is a *forum*, a *tribunal*. Laws may be human, natural and divine: the former constitute the *human*, these the *natural* and *divine* forum, which likewise is called the *forum of conscience*.

Sch.—To the human forum belong only those actions which come under the cognizance of the laws of the land; the natural, the divine, and the forum of conscience extend to all manner of actions which are of a moral nature.

Imputation before the tribunal of God will be in perfect truth, according to unerring justice, and sentence according to deserts.

In natural imputation, all the natural consequences of moral actions will be imputed to the authors of them. No good action will be unrewarded, no evil unpunished.

There is such a thing as *internal* imputation, where the author of a fact imputes to himself both actions and their consequences.

The faculty of the human soul, by which we impute to ourselves actions and their consequences, is known by the name of *moral conscience*: conscience, therefore, performs both the part of an accuser and the office of a judge.

Sch. 1.—In order more fully to understand the nature and great importance of moral conscience, and the various distinctions thereof, intimated by various epithets applied to its acts, it will be necessary that we attend to the very foundation from which those acts proceed. This is undoubtedly the *personality* of the human soul, by which it cannot but be conscious of itself, of all its thoughts and actions: with personality is intimately connected the *internal sense*, that, as a rational being, it is under obligations to do what is good and to avoid evil: upon personality and this internal sense rests the act of *judgment* concerning the conformity or contrariety of our actions to our moral obligation;

tion; *reason* thence infers the merits or demerits, the rewards or punishments which are due to us on account of our obedience or disobedience, according to the degrees of their morality or immorality.

Sch. 2.—From this analysis several general inferences may be drawn:—

1. That no man can lose conscience altogether; for, however much he may desire it, he cannot lose the personality of his soul. Hence it is that we read, ‘the ungodly have no peace;’ and it is incontestibly true, that conscience will exert its power after life.
2. That, as the internal sense of obligation is in connection with the knowledge we have of good or evil, there must be a vast difference between an *uninformed*, and an *informed* conscience. An uninformed conscience is misled by examples, by sense and passion, and judges of things and actions according to appearances: an informed conscience considers the reality of things, and judges of actions according to their consequences.

Conscience may be more or less informed, and therefore capable of improvements and liable to neglect and abuses. By improving conscience we preserve it *undefiled*; by following bad examples, sense and passion, it becomes *defiled*.

The *enlightened* conscience is the effect of the spirit and word of God: an enlightened conscience duly exercised is *pure*.

Sch. 3.—Whatever our information may be, there is still danger, that by inconsideration and inattention to our actions and their consequences, conscience may be neglected; that we either form no judgment of our actions and their effects, or that such judgment is partial and false. How unaccountable is such a conduct in persons endowed with understanding, reason and judgment, not to exercise these powers, not to make a proper use of these heavenly gifts? Certainly the inconsiderate Heathen, the disorderly Jew and Christian, all are equally inexcusable; not because they have equal advantages, God in his infinite wisdom has not seen fit to grant it; but they are equally guilty of neglecting, abusing or perverting those gifts which are bestowed upon them.

Sch.

Sch. 4.—When conscience does not exercise its power as accuser and judge, the cause may be inattention, a settled neglect, or evil and vicious habits. In the former case conscience is said to be *asleep*, in the second it is *callous*, in the third *seared*. When the contrary is the case, conscience is *awake, tender, and vigilant*. Conscience, with respect to imputation of fact, is said to *accuse* or to *excuse*; with respect to imputation of fact and law, it is *right* or *erroneous*, *certain* or *doubtful*, *approving* or *disapproving*, *condemning* or *absolving*, or *wavering*. If conscience judges in reference to the degrees of morality or immorality, it is *good, quiet, serene*, full of peace and joy; or *bad, gnawing, gloomy, desponding, tormenting, full of despair*.

Sch. 5.—In the moral as well as in the physical world, nothing happens without previous causes; conscience, therefore, can never become callous or seared except it be suffered to sleep: neither shall we easily run the risk of being misled by an erroneous conscience, if we exercise our judgment and reason, together with the internal sense of our obligations, and do not depend upon examples or consult sense and passions. We shall be secure against despondency and despair, if we guard against a bad conscience. We may enjoy great peace and joy, if we take care to have a good conscience before God and before men.

Finally, observe that happiness and misery in this life do not consist in things external: nor riches, nor honours, nor the possession of the earth can make a man happy who has not a good conscience: no poverty, no persecution, even death cannot render the man unhappy who does his best endeavours to preserve a conscience pure and undefiled.

Sch. 6.—It is in our power to awaken conscience when it falls asleep; it is therefore in our power to keep it undebauched, tender and vigilant; for attention and reflection are in our power, and we ought to keep them in exercise, as rational creatures accountable to God for all we think, speak or do. The day comes, and must come, when even the seared conscience will become sensible, when it will find no excuse, no hiding place, but must feel unutterable pangs of despair, anticipating God's righteousness in judgment.

As

As the *conscientious* man is invariably determined to conduct himself conformably to his internal sense of obligation, it follows, that, as such, he maintains in general the character of the internally honest and upright man.

However commendable these characters may be, still it is necessary that in our conduct we attend also to other things besides the internal principle of our mind. For instance, may not the upright, the conscientious man be inattentive to the rules of decency and propriety? may he not form an erroneous idea of the consequences of actions, or the intention of the agent? may he not, therefore, make a mistake with respect to the particular laws of morality or immorality? In one word, cannot a conscientious man be mistaken, or act from an erroneous conscience?

The conscientious man, who acts from a right and well informed conscience, is, therefore, the most excellent character, worthy our imitation.

Sch.—What shall a man do under a mistaken or erroneous conscience? We answer, Let him cast it off as soon as he is convinced of that error, but follow it as long as he conceives himself right. Suppose he should not observe the latter, would he not sin against his conscience? and would he not be apt to do so in cases where his conscience might be right? Who would trust that man? A man without conscience is a monster!

PART II.

Sect. I. *Comprehending Ethics.*

INTRODUCTION.

BY *ethics* we understand that part of moral philosophy which treats of the duties of man.

Duties are actions to be done or omitted conformably to the directions of moral obligations and laws.

Duties may be distinguished into *commissive* and *omissive*, into *perfect* and *imperfect*; into *duties to God*, *to ourselves*, and *to others*. The two former distinctions have reference to the obligations and laws which enjoin them, the latter has respect to their immediate objects.

Commissive duties are enjoined by preceptive, the omissive by prohibitory laws; as, *love God with all thy heart—do not love sin.*

Sch. 1.—What has been observed with respect to the distinction of preceptive and prohibitory laws, may in some measure be applied to this distinction of duties: for the commissive duties imply omission of all acts inconsistent with the performance thereof; and there are commissive acts likewise necessary in omissive duties, so that both must be considered as correlate ideas, inseparable from one another. It is, therefore, only the general and principal character of duties that justifies this distinction, and the proper use we are to make of it is, that we learn at once the great extent of our duties in all the particulars which a faithful performance of them requires. For instance, *the love of God* requires, besides the commission of many things which constitute that affirmative duty, that we abstain

stain from all that is inconsistent with its performance: not only our whole heart, soul, mind and strength is to be engaged in doing what is pleasing to our God, but we must also avoid all things which are sinful and displeasing to him, if we sincerely desire to love him. The same is the case with respect to the negative duty, *do no injury*: here we have not only to omit many things which are of an injurious nature, but we have also to do all actions consistent with and necessary for its performance: we must pay our debts, requite services and labour done in our behalf, &c.

Sch. 2.—We may therefore lay down this general maxim respecting the performance of duties, that all commissive duties imply those omissive acts without which their performance cannot take place, and vice versa.

Perfect duties are enjoined by perfect laws, and result from perfect obligations. As the performance of them may be compelled, they are denominated *duties of necessity*.

Imperfect duties have reference to imperfect obligations and laws. As no compulsion can take place, they are stiled *duties of humanity*, for in performing them we act up to the dignity of human nature.

Sch.—The division of duties in respect of laws may be carried to a great length, as laws are of various complexions and denominations: thus civil, religious, family, public and private duties, &c. have reference to civil, religious, family, public and private laws, &c.

Duties to God have for their immediate objects the infinite perfections and will of God.

Duties to ourselves have for their immediate objects the properties and qualities of our nature, and all that is interesting to our own state.

Duties to others have for their immediate objects the concerns and interests of our fellow creatures.

It

It ought to be observed, that all duties to ourselves and to our fellow creatures are in a mediate manner duties to God, for ultimately they have reference to his will and divine perfections. We do his will in rendering ourselves and others happy; and we ought to be attentive in performing all obligations to ourselves and others, in order faithfully to discharge our duty towards God. All laws ultimately depend upon his will, and our obedience ought to be prompted by motives taken from the divine perfections.

CHAPTER I.

Of our duties to God.

IT is a principal, nay, the first duty we owe to God, *that we sincerely desire to know him*, for we ought to render our state happy by faithfully obeying the natural laws: this will be the case if we consider them as the laws of God, by taking our motives of obedience principally from the divine perfections: hence it is necessary that we know those perfections. By knowing the divine perfections we know God: the first principle of nature, therefore, enjoins the duty that we desire to know God.

Sch.—This duty might be proved from the nature of the soul, which can be as little affected by things unknown as by those which do not exist: but having established a first principle of morality, it is proper that all duty and right should be deduced therefrom.

Things which may be known of God have either reference to his existence, or to his essence, or to his relation to man and other creatures: hence we ought to know,

know, with conviction of soul, both that he is, and what he is in and to himself and to his rational creatures.

There is a God! God exists! This truth, deeply implanted into the human mind, and universally acknowledged by all nations, admits of demonstrative proof in the strictest sense of the word, and rests upon principles which cannot be shaken; so that no manner of room is left for a reasonable pretext of doubt.

Amongst the various arguments from which the existence of God may be demonstrated, we confine ourselves but to one, which is as irrefragable as it is universally obvious: for a rational man will be sufficiently convinced of the existence of a God, if he can be as certain of that existence as he is of his own.

We are conscious of ourselves and of other things without us, consequently we think. Thoughts of our mind, like other affections or modes, can only be predicated of things which have existence. Our own consciousness, our own thoughts, therefore, proclaim our existence. Since our consciousness of other things, which are objects of sense and thought, likewise evinces their existence, we draw this general conclusion: We and other things, *i. e.* the world, exist.

However, every thing has its cause why it is so and not otherwise; our existence and that of the world must consequently be the effect of a sufficient cause. This cause of our own existence and that of the world is either in ourselves or in the world, or in a being distinct from both. Were the former the case, we or the world would exist necessarily; that existence would be eternal and immutable; for what is necessary cannot be otherwise, and consequently can undergo no change, cannot begin,

begin, cannot cease to be. Therefore, as we are changeable, beginning and ceasing to exist, and as the whole world, in all things of which we have knowledge, is contingent and variable, it evidently follows, that our existence and that of the world are the effect of a cause without ourselves and without the world; the effect of a cause which exists of itself, eternally, immutably, and invariably, and is the first cause of all things that exist. This first cause is called God: our own existence, therefore, and that of the world, proclaim the truth, there is a God.

A God of eternal and immutable existence, and the first cause of all things, must in himself possess all possible perfections; for his immutability admits of no augmentation, nor of any diminution. A being possessed of all possible perfections is called *infinite*; God, therefore, is infinite.

God is a being of a *simple, invisible, incomprehensible* nature; for composition of parts, which implies both limitation and mutation, cannot take place in a being which is infinite, necessary, and immutable.

God, the great first cause, who has ordered all things in wisdom, must be possessed of understanding and will; but as these are properties and attributes of spirits, it follows, that God is a spirit.

God is not only a spirit similar to the soul of man and other celestial, invisible, intelligent beings, but he is essentially different from all spirits, whatever their exalted perfections may be: these, like our souls, are finite beings, creatures of his power: he, the creator, is the only *infinite spirit*; because his understanding and will, like all the glorious perfections of his essence, are infinite.

Q

Hence

Hence it follows, that in respect of the divine essence there is *but one God*, for there can be but one infinite being.

Sch. 1.—If we suppose two or more infinite beings, they must either be equal or unequal in perfections. But beings of equal perfections and power could oppose and resist each other; neither of them, therefore, would possess all possible perfections, that is, neither of them would be infinite. If they possess unequal perfections, certainly that being which is inferior to the other cannot be infinite.

Sch. 2.—Nature, therefore, perfectly agrees with divine revelation, which most strenuously inculcates the unity of the divine essence: but no argument can be drawn from this unity of essence against a plurality of persons.

Sch. 3.—Among the infinite perfections in God, which flow from his necessary existence and from his spiritual nature, the following may be principally noted: his necessary existence, eternity, immutability, independence, spirituality, infinity, all-sufficiency, omniscience, omnipresence, wisdom, omnipotence, faithfulness, goodness, justice, holiness.

Superstition and atheism are high offences, militating against this our first duty, by which we are bound to endeavour to know the existence, the infinity and spiritual nature of God.

By *superstition* we understand that fatal error where, by false conceptions are formed of the pure and infinite perfections of the deity, or false inferences drawn from his true perfections, so that they are made motives for and principles of actions.

Sch. 1.—Superstition likewise attributes to creatures things which only infinite power can effect; but this and other kinds of superstition come under our definition; for all of them imply a denial of his omniscient care, all-sufficient power and infinitely wise government.

Sch. 2.—Were superstition a less active principle than it really is, there would be rather cause to pity than to detest persons.

sions tainted with it. But who does not feel horror in revolving in his mind the scenes of bloodshed, of devastation and human misery which persecuting superstition has spread over the world? Who does not know that every kind of superstition is of that persecuting nature in one degree or another?

False conceptions of the infinite perfections of God may lead into a wanton denial of his existence. This unnatural offence is known by the name of *atheism*.

Sch. 1.—That person would be guilty of *theoretical atheism*, who in express terms should say, there is no God. It may be questioned, whether man has ever advanced so far in insanity and folly.

Sch. 2.—But it is not so with respect to *practical atheism*, of which those are guilty who live as if there were no God, or, to speak in terms which have already been defined, who do not take motives from the divine perfections. Men who are deaf to the call of reason, callous and insensible to the voice of conscience, and commonly given to every evil, may acknowledge the existence of a God, but in works will reject and deny him.

What shall we say of *deism*, which is split into various sects? Those who believe not divine revelation and the mysteries of salvation, because they never enjoyed the great privilege of living under the gospel, we consider as objects of our sympathy and humanity: those who reject these advantages we leave responsible for inconsistent conduct and itch after novelty before the tribunal of God. But that sect which holds to the existence of a God, and denies his providence, we here designate by that name, and charge its adherents with the most foolish superstition that has ever degraded human nature. God should have created, his power should support all things, and should not care for them? He, the father of the universe, the father of mankind, should be too great, too high to regard the world and the

the conduct of the children of men? Despotic error! God should be too great, too high to be wise and good! Nature recoils at the thought; and that man must certainly have gone far in wickedness who can say in his heart, there is no God, or, which is the same, God does not superintend and govern the universe. Can there be any perfection wanting in him who is infinite? Could he be infinite, could he be God, if he were wanting in goodness and care? To him nothing is too little, because nothing is too great.

How nearly, then, are the offences allied, which are levelled against the true knowledge of God? How difficult is it to determine which is the greatest folly, whether to say there is no God, to live without God, or to assert that he who has formed the ear does not hear, he who has made the eye does not see?

All these absurd errors, with other strange notions attending them, are high offences; for they militate against the laws of nature and nature's God. All, therefore, who give way to or continue in any of them must render themselves unhappy and miserable.

What a great value, therefore, ought we to set upon that wisdom which is after God? and how thankful should we be for the means so abundantly given us to attain to a true knowledge of his existence and infinite perfections?

As an assemblage of perfections constitutes *glory*, and as by *majesty* is intimated the supreme power of government; and as these in God are infinite, it follows, that he is in and to himself a spirit of infinite glory and majesty.

It is our duty to God to *glorify him*, by taking motives for our conduct from his infinite perfections.

Sch.

Sch.—God's glory being infinite, it follows, that by glorifying him we cannot add to it; neither can it be diminished by a contrary conduct. He does not stand in need of any thing his creatures can do. How, then, can it be said, that we glorify God? We answer, in manifesting his glory to our fellow creatures; for, by acting from motives taken from the divine perfections, others may be led to trace these motives, and thus feel an incitement to endeavour to know God, to serve him in spirit and in truth, and to be sensible of his infinite glory and majesty.

Blasphemy is the unnatural and horrid crime of using words which attribute imperfections to God.

Sch.—Prophane swearing, speaking of God in a loose and irreverent manner, taking his name in vain, &c. if they do not amount to blasphemy, are still a kind of that horrid offence.

God of infinite glory and majesty is, with respect to us and all creatures, a being of infinite superiority in right of government and controul. As the inward sense of another's superiority is stiled *reverence*, it follows, that we must think of God with the greatest humility and reverence.

As by the *worship of God* is understood a proclivity of the mind to show our reverence to his infinite glory and majesty, it is evidently our duty to worship him.

In the worship of God two things may be distinguished; the internal sense of the divine glory and majesty, and the actions by which that sense is manifested: in the first case our worship is *theoretical*, in the last *practical*.

Practical worship is *internal*, when the sense of reverence actuates the internal acts of the mind; and it becomes *external*, if these are outwardly expressed by words and actions.

Worship

Worship may be *true* or *false*; for things of the holiest nature may be perverted by abuse.

If our worship is true, our theory of the existence, perfections, infinite glory and majesty of God, must be true; that is, we must have a true, and, as far as possible, a distinct knowledge thereof: for only distinct knowledge convinces the heart; and if conviction is rooted in the soul, we cannot but be struck with awe and reverence for that God in whom we live, move, and have our being. We must feel delight in holy meditation on his bountiful goodness—feel pure desire for his favour and communion: outward actions, words of our lips, prayers, supplications, praises and thanksgivings will be the willing, the natural effects of the fulness of our heart. Our whole conduct in life should be a kind of divine worship; all our actions should show that our heart is inwardly sensible how exalted, how glorious, how blessed is the Lord of hosts; how worthy to be revered and praised!

Worship founded on a false theory cannot be true in practice.

Divine worship paid to what is not the true God, is *idolatry*.

If the theory is founded in erroneous conceptions of the perfections and glory of God, worship cannot but be *superstitious*.

Worship may be true in theory, and still false in practice.

Internal and external worship may be separated; for the mind can and ought to be sensible of the presence of God and his infinite perfections, whilst we are occupied in the external duties of our calling.

Sch.

Sch. 1.—If separation of internal and external worship is carried farther, we become guilty of perversion, and act contrary to a great, a glorious and necessary duty. What is, for instance, external worship without the internal; what are the praises of the lips with a heart estranged from God, but hypocrisy, shameful in the eyes of men and abominable in the sight of God?

Sch. 2.—Neither can internal worship, always separated from external, maintain the character of true worship; for in the first place it is our duty to glorify God, that is, to show by our external actions the inward acts of the mind, and thereby incite our fellow creatures to praise, to glorify and to fear the Lord their God. There is between the body and the soul an indissoluble connection, by which the fulness of the heart must actuate our body as necessarily as the external experiences by our senses must actuate the mind.

Sch. 3.—A certain portion of time ought, therefore, to be set apart for the exercise of external worship, when the whole man, all that is within us, all our powers of soul and body, ought to be engaged in contemplating the infinite glory of God, meditating on his love and goodness, and showing forth his praises.

Sch. 4.—If we thus exercise the duties of internal and external worship jointly, we are said to *worship God in spirit and in truth.*

Worship of God is *public* or *private*; in the former we join a number of our fellow creatures; in the latter only our household is engaged.

Neglecting or treating slightly the worship of God are offences unpardonable in themselves and of a pernicious tendency; for in the first case one of the most excellent and heavenly duties is neglected, and in the latter things of the most glorious nature are prophaned and abused.

Sch.—Divine worship, therefore, whether public or private, ought to be conducted with sincere and humble devotion, equally remote from cold and indifferent formality, and from excentrical and unnatural enthusiasm.

The

The more we learn to know God and meditate upon his infinite perfections, the more sensible we become of the great imperfection of our theory. Our worship therefore, in this life, is at best but imperfect.

Worship is consequently susceptible of various degrees of purity and perfection.

Hence it is, that from imperfections observed in various modes of worship, we ought not immediately to judge them false.

God, considered in his ways towards the children of men, is an object of the purest love, of filial fear, of our cordial gratitude, of the sincerest and most humble invocation and adoration, of the most faithful obedience and the most resigned acquiescence in his will.

There is not a duty more comprehensive than love, whether its object be God, or we ourselves, or our fellow creature: it involves all other possible duties and thence is very justly stiled *the fulfilling of the law*. This is the cause why its general definition is difficult and its distinguishing characters many and various. We venture to assert, that its general idea is *animating affection concerning happiness, causing delight wherever excellency and happiness are found, and desire for them where they are wanting*.

Love is generally distinguished into *love of affection*, *love of complacency*, and *love of communion*.

Sch. 1.—Love of affection consists in a solicitude for the happiness of ourselves or others. This love God manifests in his providence towards the world, and particularly towards the children of men; the good and the bad, the righteous and the unrighteous, things animate and inanimate, being equally its objects. This love we should also feel and exercise towards all men, and extend it to all creatures endued with animal life: nothing should blunt its

its sensibility and effects: all men, the just and the upright, the friend, the obedient child, the faithful servant and the well-disposed neighbour, as well as the unjust and the dishonest, the enemy, the refractory son, the unfaithful servant and the ill-natured neighbour, have a claim to it. It is true, we have it not always in our power to render others happy; some refuse our good offices, others abuse them: we must often see persons unhappy; but we may use our endeavours to bring them to a sense of their duty; we may pity the state of the disorderly and refractory, and sincerely wish for their reform and happiness. Why is it that the father cannot bear the sight of a profligate son? Why is the sense of resentment in a brother so keen against a disorderly brother? Why is disgust among relatives so deeply rooted? Why do we feel our hearts troubled at the sight of improper behaviour in youth entrusted to our care? It is love in the father; his heart could not feel so sorely wounded if he could cast off parental affection, if he could look upon his son as a stranger. So it is with brethren, relatives, neighbours, &c. So it is with faithful teachers; could they cast off the sense of their duty, could they divest themselves of that affection for their trust which duty imposes and humanity and religion improve, they could render their situation very easy, they would not feel so many of their laborious hours embittered with the reflection that their endeavours are not crowned with the wished-for success.

Sch. 2.—It is not thus with *the love of complacency*: this, if it is true, has for its object all that is lovely and excellent, every thing wherein there is perfection, or that is influential on our happiness. As real good is only an object of delight, we feel true love of complacency only in what is good. Thus God loves his children, being pleased with their ways; thus the father delights in his obedient son, the brother in his virtuous relation; thus we feel satisfaction in the diligent, the manly, the virtuous and regular student; thus we are pleased with excellent and beautiful objects, with what is decent and right. Persons of a contrary character, things of dangerous and pernicious qualities, displease, disgust, and often distress us.

Sch. 3.—The love of complacency begets, as far as is attainable, the love of communion. God, who delights in his children,

children, dwells in their hearts: the father feels happy in the conversation of his dutiful son, and fixes his favour upon him: brethren live in harmony and communion, endeavouring to prevent one another's wishes: we rejoice in opportunities to show our esteem to the diligent, the virtuous student, &c.

What we cannot attain to is an object of esteem, contemplation, &c.

Sch. 4.—We ought to distinguish this heavenly virtue just now explained, which has for its object real good, real excellency and happiness, from that passion of the mind which is likewise stiled love, and is in consequence of objects represented by the inferior faculties of the human soul as excellent, desirable and lovely. This love, though not in itself a virtue, if it is well directed and under the controul of reason, paves the way to a more exalted and virtuous love. Innocent sensitive love has for its object innocent sensitive pleasures, in a degree becoming rational creatures destined for lasting felicity. If our habits are thus directed, will they not more eagerly pursue real, lasting pleasures and true felicity, and lead to all that is good and virtuous? But not all sensitive love is innocent; it often leads to vanities and sinful objects: if the love of the world and its lusts occupies the heart, there is no room for virtuous love; love fixed upon such things is perverted. You may innocently prefer one dish before another; so you may without guilt prefer the innocent conversation of one person to that of another, &c. But you cannot be innocent in loving idleness, mischief, empty and tempting amusements, bad company, excesses, &c. The tendency and effects of such love are unhappiness and ruin. Such a love is degrading to human nature, and inconsistent with the love of God.

God is the most excellent, and therefore above all things the most worthy object of our love; he is the source of all beatitude, the cause of our existence; he is our preserver, our benefactor, and benign father: his perfections, infinitely glorious, shine with unspotted purity and holiness. But how shall, how can we love him who is so infinitely exalted above all things his creatures

creatures can do? We answer, by a *solicitude to do nothing that is inconsistent with his glory and infinite perfections.*

Sch.—We prefer this definition to others, because it gives us a most particular and infallible criterion of our love to God. It is true, the love of God comprehends the sum of all that can be a duty to him; he who loves him sincerely will contemplate his perfections with delight, and desire his favour and communion above all things: but can I persuade myself that divine love dwells in me, if I am not desirous and highly solicitous so to order my conduct that it may be pleasing to him and consistent with his glory? In vain, then, do persons flatter themselves that they love God, if they love sin, the world, with its vanities and lusts, and if their deeds counteract the divine will. *This is love to God, says an apostle, that we keep his commandments, and his commandments are not grievous.*

It is a duty that we love God; for it is our duty to know him, to know that he is, and what he is in and to himself and to his rational creatures: a God of infinite glory and majesty, worthy to be worshipped in spirit and in truth; the creator, the preserver, the supreme ruler of the universe! Can it be said that we know him, if his infinite glory does not strike our souls with admiration and awe? Can the soul be filled with true admiration, if it be not enraptured and drawn towards him with delight? And must not delight in God impress us with a longing desire for his favour and holy communion? Can our desires after God be sincere, if we are not actuated by an anxious solicitude to please him? Can we please him, if we act inconsistent with his glory and perfections? As love to God is our indispensable duty, so it is our glorious privilege, and constitutes our greatest happiness.

Among the divine perfections is his will: a solicitude of the mind not to act contrary to the will of another has obtained the name of *fear*.

Sch.

Sch. 1.—Fear is distinguished into *filial* and *servile*; the former is a solicitude not to act contrary to the will of another, because we love, esteem and reverence him; the latter takes place when that solicitude arises from a dread of evil consequences.

Sch. 2.—A person actuated by servile fear loves himself and hates the one he fears; for looking to the bad consequences he feels an aversion, and a strong degree of aversion is hatred.

Sch. 3.—Only filial fear can, therefore, be a virtue; servile fear is, on the contrary, of a vicious quality, and carefully to be avoided in our conduct towards God and man.

Sch. 4.—Hence the saying, *servile fear is better than none at all*, cannot be construed as attributing to it any degree of excellency or rectitude; but must be taken in reference to its unmerited effects upon the peace and tranquillity of society. As lions and tygers are restrained from evil, so men of vicious dispositions and habits must be kept in awe by compulsive means, often by confinement and corporal punishment, that public good may sustain no harm.

Sch. 5.—From these observations we may draw another argument for proving the imbecility of human laws and the usefulness and necessity of religion.

It is a duty that we fear God in a filial manner; for he is worthy of our love, and without fearing we cannot love him.

It is also a duty that we endeavour in our conduct towards God to cast away servile fear; because love to God and servile fear cannot exist together.

Sch.—Hence the necessity of the utmost care in the management of families, to instill into the minds of children and of servants the principles of filial fear, in order to secure their obedience and faithfulness.

As love to a benefactor is stiled *gratitude*, it follows, that it is our duty to be grateful to God; for he is not only the object of our sincerest love, but his benefits and blessings are innumerable. Every blessing is a new, an additional motive for us to love him, and to pay

pay him the duty of gratitude. Praises and thanksgivings being the effusions of a grateful heart, let them be the tribute which our hearts rejoice to bring before the footstool of our God.

Can there be a more monstrous, heinous and unnatural vice, than ingratitude to God?

Sch.—All are guilty of that vice who do not love God, who do not reflect upon his merciful blessings, and who care not to use them to his glory and the end for which they are given. Those who envy others, and murmur against the ways of providence; those who look down with a proud and unfeeling heart upon human distress, and suffer it on their part to continue unrelieved, &c. are guilty of ingratitude. But unnatural as this vice is, still it is prevalent among the children of men, not only with respect to their conduct to one another, but also to that God in whom they live, move and have being.

As a proclivity of the mind to do what another commands is called *obedience*, it follows, that we must obey God; for we are bound to obey the natural laws, which are the commands of his will; we ought to fear and love him. No human authority can free us from this duty; and in cases of real collision, we must obey God rather than man.

When we are actuated in our obedience by no other consideration than the will of the commander, we are said *to acquiesce in that will, or to be resigned to it*. Since God is a being of infinite glory, majesty, wisdom, power and goodness, it is our duty to feel ourselves happy in doing his will, and to be fully resigned to all the ways of his government and providence. He is omnipotent, therefore our reluctance would be vain; and as his will is our happiness, discontent and murmuring cannot but be foolish and sinful.

Sch.

Sch.—Resignation arms the mind with fortitude under adversity, poverty, sickness and persecution; inward peace and consolation are its faithful attendants; it triumphs over death.

CHAPTER II.

Of duties to ourselves.

AS the duties we owe to ourselves result from the same principles of natural law from which our duties to God are inferred, it follows, that the former must be in perfect consistency with the latter; for both ultimately flow from one source, to wit, the will of God, and have one and the same end for their object, the happiness of mankind. They consequently are of the same authority and importance, excepting the difference of their immediate objects. Duties to ourselves are therefore in a mediate manner duties which we owe to God.

Hence we may infer these infallible axioms: *Nothing can be a duty to ourselves that is repugnant to the duties we owe to God: What is repugnant to a duty we owe to ourselves cannot be a duty to God.*

Natural laws, commanding us to render our state perfect as possible, require that we principally endeavour to promote our own happiness. But as such an endeavour is called *love*, it follows, that it is a principal, nay, our first duty to love ourselves.

If we are bound to love ourselves, we must conduct ourselves in all our pursuits conformably to the injunctions and prohibitions of the law of nature; for a contrary conduct is repugnant to our real happiness.

Sch.

Sch.—How grossly mistaken, therefore, are those persons who, from a vain and erroneous persuasion that they love themselves, run into all manner of excesses, seeking pleasure and satisfaction in vanities and wicked pursuits? Strangers to virtuous love, they take sense and passion for their guide, never consulting their true interest and happiness. Such persons are their own enemies, as in reality they hate themselves.

As a state of perfection and real happiness causes *true pleasure*, it follows, that true love only leads to real pleasure and satisfaction.

As real pleasure depends upon many things as means necessary for its acquisition and preservation, it will be our duty to endeavour to obtain and to make a proper use of all those things which contribute to our real happiness.

There can be no real pleasure and happiness where there is not inward peace, tranquillity of mind and a good conscience; he, therefore, who truly loves himself, must endeavour, by an irreproachable conduct before God and men, to possess and to preserve this desirable treasure.

Thus our true interest is our principal duty, and as these in their nature and tendency are things inseparably connected, it is one of our most important duties to learn our real *interest*.

Sch. 1.—To seek our interest in things which gratify the sense, please the fancy, and flatter our passions, which inflame pride, invite ambition, avarice and lusts, is and has at all times been the fatal source of folly, extravagance and misery among the children of men.

Sch. 2.—It is from want of attention and reflection that such empty things have so forcible and so general an influence on the human heart. Evil habits are contracted before we exercise reason: bad examples, with which the world abounds, steal the soul against the voice of understanding.

Hence

Hence it is that the road to virtue is difficult, and that thousands run headlong to destruction: not because they wish not, but because they neglect to know their happiness.

True love to ourselves is therefore an arduous, comprehensive and complicated duty; for, independent of all our duties to God and to our fellow creatures, with which it is indissolubly connected, it comprehends the perfections of the soul and body, together with their internal states, besides innumerable other things influential on their happiness and necessary for the perfection of our nature.

In loving ourselves, our first care should be to render our immortal soul as perfect as possible, by duly exercising and improving its faculties, particularly the superior, our understanding and will: by these we rank with spirits, and resemble God the father of spirits.

We are therefore in duty bound to render our understanding as perfect as possible, by endeavouring to obtain knowledge of all things influential on our happiness; in particular to know God, his infinite perfections, and our duties to this glorious being; to know ourselves, and the end of our being; to know the human heart; to know mankind; to know our duties to others, together with the right and best mode of performing them; to investigate the nature, the qualities and destination of as many things of this world as possible; to know what is good or bad, right or wrong; what is necessary and useful in life, &c.

But whatever we know or can know, let it remain a particular care that our knowledge be as distinct as possible, that it be free from confusion and error, that we may distinguish good from bad, right from wrong, things

things of great usefulness from those which have an influence less beneficial, and from such as are dangerous, sinful, improper or wicked. How earnestly, then, should we attend, how indefatigably reflect upon all things which present themselves as objects of knowledge? And how eager should we be to find out, to see by the eye of understanding the more exalted and glorious things to which sense cannot aspire? It is proper that a spirit immortal, destined for eternity, should make itself acquainted with the things of eternity, invisible and full of glory.

The duty, therefore, which we owe to our understanding, may be comprehended in these few words: Endeavour to acquire knowledge of all things which may have influence on your duties and happiness, and do all in your power that your knowledge be as distinct as possible; for we may be said only to know that which we know without error and confusion.

Sch.—Observe, that we seldom find men wicked and abandoned for want of knowledge, but generally for want of attention and reflection, for want of exercising reason and judgment.

We must also endeavour to render our will as perfect as possible; for what does all knowledge avail us, if we do not thereby become better men? The principal aim, therefore, in improving our understanding and reason, should be, that the inclinations of our will be thereby directed to pursue that which is really good and excellent. Reason is given us that we should walk by its light. He who does not realise his knowledge in the pursuit of virtue may perhaps boast of the name of a learned, but can never claim the character of a wise and good man.

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Our will is perfect as far as it is actuated by distinct ideas of good and evil, of right and wrong; and has controul over sensitive appetite, passions, propensities and instinct, by suppressing, restraining or directing them in conformity to the dictates of natural laws, our own happiness, and the felicity of others.

Our will is endowed with liberty, and we must direct it in chusing always what is really good, what in every circumstance of life is best. If this be our invincible purpose and design, our will obtains a firmness and excellency worthy the dignity of our rational nature; the pursuit of virtue will become more and more pleasant; we shall triumph over sense, passion, and the vanities of the world—be happy, and resemble the infinitely perfect pattern of holiness, as far as perfection is attainable in this life.

Great and comprehensive, therefore, is the duty we owe to our immortal souls. We must make many a sacrifice to our understanding and will, in order to conduct ourselves conformably to the will of God. We must endeavour to distinguish truth from error, good from evil, realities from appearances, principally for this end, that we may invariably pursue the one and reject and avoid the other. We must study nature in all its beauty, usefulness, harmony and order, that the heart may be convinced of the existence, the infinite wisdom, goodness and majesty of God, and sensibly feel the necessity and importance of our indispensable obligation to glorify, love and obey him. We must be indefatigable in our researches after truth, that we may have all possible motives to examine our own hearts, to invigorate our inclinations, and to render them steadfast in the pursuit of holiness. The road to
virtue

virtue often becomes arduous and difficult; many temptations must be overcome, passions must be subdued, lively pictures of sense and imagination must be suppressed, our judgments suspended, our inclinations traversed, and the whole compass of our duties attended to; not one is to be done by halves, much less to be neglected.

Hence it is not a less important duty that we be extremely assiduous in the use of all the means by which the understanding may be improved, the will meliorated, and the mind invariably determined not to deviate in the least from the line of rectitude. We must, on the contrary, most carefully avoid all things which might mislead the understanding and give the will a contrary direction.

Among the means which may assist the improvement of the mind, good books and good company are principally to be esteemed; for, as the former set forth the cause of religion and virtue in their true excellency and salutary tendency, so the latter is calculated to inspire the mind with a noble zeal of emulation, and as a forcible stream to carry with it our inclinations to prosecute virtuous pursuits with steadfastness and delight.

But care and circumspection are necessary, as there are great numbers of bad and dangerous books, and as the world abounds with bad examples and company.

Among bad books we rank those principally which advocate the cause of irreligion, speak slightly of virtue and its rewards, and represent vice as harmless or indifferent, or exhibit it under the captivating appearances and names of virtue.

Novels and romances of a lascivious nature and tendency, as they have done and still do a great deal of mischief,

mischiefs, are justly brought into the catalogue of dangerous books; for the purpose of them is to intoxicate the mind with false and fictitious representations, calculated to excite and inflame the passions, pervert the judgment of youth, and to give a loose to all the boisterous inclinations of an unsettled disposition. Such books in the hands of youth must be particularly dangerous; for, as their understandings, not yet mature, want the aid of experience to distinguish realities from appearances and just reasoning from fallacy, not only a considerable part of precious time will be wasted and lost, but their morals will be corrupted, and the temptations thrown in their way, like hidden poison, will have a pernicious effect.

We cannot speak highly in favour of the best books of this kind, though their express design is to recommend virtue and perseverance in goodness under a variety of trials; for, as all is fiction, which seldom or never can be realised in life, curiosity may thereby be entertained, but no melioration of the heart effected.

We should rather feel inclined to advise those who have leisure hours to spend them both agreeably and profitably in reading history: facts realised in life are in themselves interesting, and, besides, exhibit lessons of prudence with respect both to public and private life. History gives us a lively representation of the ways of divine providence in the world. Contemplating the rise and fall of empires, we learn to revere God's righteous judgments.

Much also will depend upon our choice of company; for, as conversation with good and righteous persons is one of the most lively incitements to virtue, and calculated to shield us against many temptations, so the
company

company of the wicked is a pest to good manners, the school of vice, and an almost infallible criterion of a base mind and depraved heart.

What can be a greater incitement to a faithful discharge of our duty than the consideration of the immortality of the soul? The care we take of it shall never cause regret; the good done in this life shall be enjoyed forever.

Sch.—The immortality of the soul is doubtless one of the most important truths that ever can engage the human understanding; for we are thereby enabled to know the great and glorious destiny of our nature; and it is from a due consideration thereof that our souls feel inexpressible animation in the arduous performance of all the duties of life. It sets divine wisdom, power, goodness and justice in the clearest light, and causes us to triumph over all manner of adversity, even over death itself. Convinced of the immortality of the soul, we may look for a glorious restoration of that frail part of our nature, the destiny of which is to return to the dust from whence it is taken, until God shall judge every man according to his deeds. Our labour, then, in the pursuit of virtue, our denials in the faithful discharge of our duties, shall not be in vain, but ultimately crowned with success and rewarded with everlasting glory.

The immortality of the soul comprehends two things, to wit, a continual duration of its existence, and the never-ceasing consciousness of itself and of those actions which have been done in conjunction with the body in this life.

All beings of a simple nature have perpetual existence in common with the souls of men. Though we are not able to give a satisfactory account of the future destiny of the souls of animals, or the first elements of compound beings, yet we may take it for granted, that they will answer the great ends which infinite

finite wisdom and goodness hath designed in decreeing and giving them existence, particularly as the power of God is all-sufficient. So much is certain, that things of a simple nature cannot cease to exist as those which are compounded: where parts may be transposed or dissolved, there only changes or dissolution can take place. If the former should cease to exist, nothing in themselves nor any thing from without could be a sufficient cause of such an effect except the will of God. That power alone can cause things to return to their pristine state that called them from mere possibility to a state of existence.

An act of the divine will, by which God should cause things that exist to return to the state of mere possibility in which they were before creation, is known by the term *annihilation*. Beings of a simple nature cannot, therefore, cease to exist but by annihilation.

But it is a question, Will God annihilate? We answer in the negative; for, with respect to the souls of brutes and the first elements of composition, no shadow of proof can be afforded that their annihilation would be consistent with the wisdom of God. With regard to the human soul, we have convincing arguments that its annihilation would contradict the infinite wisdom, goodness and justice of God. He should have endowed it with faculties superior to the limits of time and space, and given that power itself but, as it were, a momentary existence? Can infinite wisdom and goodness do any thing in vain? And must we not assert such an absurdity, if we hold that the soul shall in a short space of time cease to exist? Certainly a person who knows any thing of the power that is in man must be sensible that its thoughts connect things past with the

the present, and from these look forward through inconceivable eternity. Limited now to the body, it takes its range into the heavens, pervades the dark regions, the habitations of endless misery, pierces through the veil of time, and beholds the blessed abodes where peace and joy for ever reign. That spirit should cease to exist that has capacities so vast and divine? What shall we say of the desires of our souls, which nothing of a frail or temporary nature can satisfy, and which finds contentment only in the hope that it shall enjoy God and his communion from eternity to eternity?

And for such an enjoyment the soul is qualified by its personality. It is conscious of its existence and actions in the present moment; it has power to recollect time which is past, and that power shall continue unto eternity. For, though the soul obtains primitive ideas by the organs of sense, yet it forms those which are distinct by its own application and powers, in a manner so far independent of the body, that this is not seldom an obstacle and incumbrance to the exercise of those spiritual and sublime representations, which, once impressed on the soul, can never be erased from its recollection. The soul, therefore, after separation from the body, will certainly know that it once existed in conjunction with it, and committed or omitted such actions as render it acceptable to God, or an object of his displeasure. Thus the human soul will not only continue to exist, but be conscious of its present and past states, and capable of everlasting rewards or punishments; that is, the human soul has not only perpetual duration, but is destined for immortality.

This truth, together with a future state of existence of our bodies, is still more firmly established upon the unerring

unerring justice of God. Shall the judge of the world not do right? Shall not every good action meet its reward, and all acts of unrighteousness be ultimately punished according to their deserts? We answer in the affirmative; for that God is righteous is as certain as that he exists; and as the heavens and the earth declare his existence, so the day will come when they shall witness and approve his righteous judgment.

Sch. 1.—Though we hold to the continued duration of all beings of a simple nature, yet we deny that any other than those which are intelligent are possessed of an immortal nature. Immortality is the prerogative of spirits.

Sch. 2.—But shall not our bodies be also raised to immortality? We answer, that the glorious immortality with which our bodies shall be endued does not flow from the natural powers of them, but from the power, wisdom and justice of God.

Since the soul and body are the essential parts of our nature, and exist in the closest union and harmony whilst we are in this life, it follows, that we cannot perform our duty to the soul if we do not at the same time endeavour to render the body as perfect as possible.

As the body is capable of an infinite variety of modes, influential on human happiness, among the various perfections of which it is susceptible we may distinguish those which are *born with us* from others which are *acquired*.

The perfections of the body born with us may be called its *constitution*; those which are acquired consist of various *habits* and *accomplishments*, and have reference either to the necessities, the conveniences or the luxuries of life: as they may be conformable or contrary to the dictates of natural laws and the scope of our present existence, they become particular objects of commissive and omissive duties.

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The foundation of constitution, health, and all other accomplishments, is *life* itself, the greatest of earthly blessings. The opposite of life is *death*, the greatest evil that can befall the body.

Love to life and the fear of death are instincts which we have in common with other beings endowed with animal life, save this difference, that the sense thereof is heightened by the prospect of futurity, which brutes are incapable of, or possess in a very small degree. But as rational creatures enjoy life for far more glorious purposes than brutes, it becomes us to love life, not for the sake of its enjoyment solely, but principally for the purpose of being active in the performance of all the duties which the Creator has assigned us for the great ends of his glorification, for our own felicity and that of others. Thus animal life, which consists in the activity of animal powers, becomes rational in man, if not only the powers of the body, but principally those of the soul are employed and constantly active for the attainment of the end of his existence, for a felicity that lasts for ever.

Sch.—How important is life, if it is considered as a state of preparation for that of a more glorious and everlasting existence! How inglorious, when these great ends are neglected, when men, endowed with rationality, live to no better purpose than to go through the routine of eating, drinking and sleeping, until death finishes their career! If the brute lives so, it lives innocently, and accomplishes the end for which its existence is given: but can man be innocent, if his soul is not active in the pursuit of virtue, perhaps active in sin and vice? Does he live up to the dignity of his nature by spending his days idly and unprofitably to himself and others?

It is, therefore, an important duty that we learn to know the value and destination of life, that we may improve it by an indefatigable pursuit after virtue.

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Upon this consideration it cannot but be one of our first duties that we endeavour to *preserve* life.

This duty is generally known by the term *self-preservation*, and writers on morality justly lay it down as the greatest and first of duties; for if life ceases, all possibility to do our duty in this world is at an end.

The horrid crime opposed to this duty is *suicide*, where a person deprives himself of life.

Sch. 1.—Since we have not given life to ourselves, and since it is given by God for greater and more glorious purposes than sensual enjoyment, it follows, that no person, under any circumstances whatever, is at liberty to take away his own life.

Sch. 2.—It is to be hoped, that a crime so unnatural will find no advocates among the rational part of mankind; and there is cause to suppose, that persons who have made themselves sad examples of its perpetration have laboured under mental infirmities, or were surprised by most violent passions.

Sch. 3.—Suicide may betray dastardly cowardice, but can never be a sign of magnanimity and true courage. The example of Cato is not an exception, and his harangue is stoic bombast and phrenzy.

All actions where life is exposed to unnecessary danger, amount to a kind of suicide, and are therefore to be avoided.

But life may be exposed to imminent danger in a very just manner, nay, even lost with glory, when the glory of God or public good in an immediate manner require that sacrifice; for the chief end of life is the glory of God; and with the preservation of our country, our own life and the preservation of other valuable lives is connected. By thus supporting the cause of God and of our country, we cannot be charged with
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flighting a blessing, but we are to chuse, in a collision of important duties, the performance of the greatest.

The preservation of life is immediately connected with another important duty, which enjoins all possible care and the observance of all necessary means to preserve our health. A sickly life is but a lingering death; for what are things of the most exquisite taste and beauty to a constitution dead to enjoyment and pleasure? Sickness not only renders the body unable to perform the duties of our calling, but also damps the powers of the soul, and thus unfits it for any great and useful undertaking: in short, it renders life disagreeable to ourselves and unprofitable to others.

Those, therefore, who, by the ill management of life, by excesses, luxury, idleness, and intemperance, ruin their constitution, sin against their own life and render themselves in some measure guilty of suicide.

Our constitution being the quality of the body born with us, consists in a harmonious structure and a most wonderful mechanism of its several parts: these depend for their operations upon things which support that harmony. There is a proper mixture of fluids requisite to prevent its derangement. Too great a waste of powers, or other extraneous causes or accidents, may debilitate, nay, destroy it.

Many things, therefore, are necessary for the preservation of our health, which of course become important duties:—We must procure sufficient meat and drink, afford the body moderate rest and relaxation, provide it with cloathing and convenient shelter against the inclemency of the seasons, study cleanliness, &c.

As all these duties require the application of mental faculties and bodily strength, there is sufficient cause
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on that account why labour and diligent application should be classed amongst the most indispensable duties for the preservation of life and health.

But there is another consideration which, if possible, enhances the obligation, and should particularly endear to us a useful occupation in life: this is, that exercise and health, labour, and the enjoyment of the good things of this life, are inseparably connected. Labour invigorates, idleness and luxury weaken our constitution: a laborious person finds exquisite sweetness in the coarsest and most common nourishment, whilst the luxurious idler is condemned to chew, not to eat, since he finds relish in nothing.

Another necessary mean and duty for the preservation of our health is *temperance*, that excellent virtue which commands moderation in all our enjoyments:—intemperance, with its scandalous offspring, gluttony, drunkenness, lasciviousness, incontinence, pride and ostentation, independent of their horrid effects upon the peace of families and society, may be looked upon as more destructive to the life of mankind than war, hunger and the plague together.

Serenity and tranquillity of mind, the natural consequences of a prudent and virtuous conduct, form an invaluable ingredient in the promotion of health. A faithful performance of our duties, therefore, becomes necessary, not only for the perfection of the soul, but also for the perfection of the body.

Sch. 1.—From the comprehensive duty which commands the preservation of life and health, many inferences may be drawn, which might serve as maxims for the regulation of our conduct in the multifarious situations and circumstances of life. We ought, for instance, to be truly sensible of the necessity of government, and the great advantages

tages we derive from its protection, since, among many other valuable benefits, it affords security to both life and property.

Sch. 2.—We ought to avoid every thing by which others may obtain the right to confine our person or deprive us of life.

Sch. 3.—It will often become our indispensable duty to seek the assistance, and faithfully to follow the directions of those who have successfully applied their time and talents to the study and practice of the healing art.

Sch. 4.—Life above all things is precious; but nothing is more valuable in life than health and a good conscience.

There may be situations of life in which it will become impossible for us to obey all the laws which have controul over us, on account of their collision: in such cases we cannot perform all our duties; but by acting conformably to one we must act contrary to another; that is, our duties *clash*, and it becomes our obligation to perform the greatest in preference to the least.

Whenever a duty clashes with the great law of self-preservation, we are said to be in a *state of necessity*.

The state of necessity may be absolute, extreme, or respective.

A state of *absolute* necessity is, where life is in imminent danger; as, where a person with a drawn sword or a charged gun runs against another threatening to take away his life.

A state of *extreme* necessity is, where our own life is not immediately in imminent danger, but that of persons who are next to life dear to us; or, where things absolutely necessary for the preservation of life are forcibly taken away; as, for instance, if a person runs up with sword or pistol in a threatening posture against another's wife, child, brother, father or neighbour; or, if he is taking away our provision in a desert far distant from a possibility of obtaining a supply, &c.

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A state of *relative* necessity has reference to cases where life has not really been in imminent danger, but where the agent has considered himself in such a situation: for instance; a person may have a gun uncharged, a circumstance well known to himself and to others, but unknown to him whose courage he intended to put to a trial, by assuming a threatening posture with the weapon in his hand.

In a state of absolute necessity, the duty of self-preservation justifies and commands to take away the life of an aggressor, if it is not in our power to defend ourselves by any other means. But to take away life when we can preserve our own by maiming or otherwise disabling or confining the aggressor, would be naturally unlawful.

The same duties will result from a state of extreme necessity. If we cannot defend the life of a wife, child, &c. &c. without taking the life of the aggressor, self-preservation justifies that dreadful alternative. The same would be the case if those things are taken away whereon the preservation of life immediately depends; as, provision in a wilderness.

In a state of relative necessity, we cannot account for the feelings of another. If he who passes an imprudent and unmanly joke upon another suffers, we have cause to pity his indiscretion, but judge the defendant innocent.

In judicial proceedings, consideration for the feelings of a person who has conceived himself in a state of necessity, is stiled *favour of necessity*.

Sch. 1.—Extreme necessity may be greater or less; persons likewise differ with respect to temper; circumstances have also a considerable influence upon the human mind; so that

that it is very difficult to judge what a person ought to have done or omitted. We should not be forward, therefore, to enter upon a peremptory judgment with respect to the conduct of others, who have been more or less in a state of necessity, or had causes to conceive themselves in such a situation.

Sch. 2.—The barbarous custom of duelling being founded upon a chimerical law of honour, in direct contradiction to the sacred precepts of moral law, is so far from coming under a state of necessity, that it is in every instance a premeditated act of wilful transgression against the laws of God and the municipal laws of the land—a crime equally participating of suicide and of murder.

Sch. 3.—A wise and good man will never suffer himself to be misled by such mistaken notions of honour; nor will he ever find himself destitute of the most efficacious means of defending his character; for, wisely pursuing the path of virtue, he cannot fail of having the good opinion of the upright in his favour; and he sets not so great a value upon the estimation of persons of a contrary character as that he should wilfully violate the laws of God and his country.

There are innumerable things necessary as means for a prudent and faithful performance of the duties we owe to the soul and body.—Things necessary and convenient for the preservation of life, and calculated to assist us in the performance of our duties, may be comprehended under the term *estate*.

It therefore becomes a weighty duty which we owe to ourselves, that we endeavour, by all lawful means in our power, to procure and to preserve an estate.

Actions by which an estate may be procured and preserved in a lawful manner, are denoted by the term *labour*; and a certain mode of conducting labour is called an *occupation*.

We are consequently bound to labour, and to follow a certain lawful occupation.

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Sch. 1.—It is from the surprising variety of occupations that each person may be usefully employed and may lawfully obtain a portion of the general stock of those things which are necessary and convenient for life: it is from the same source that countries draw their riches, and acquire importance and strength; that commerce flourishes, and the produce of the earth, the fruits of industry, supply and connect the most distant regions of the globe.

Sch. 2.—The opposite of labour is *idleness*, a pernicious, unnatural and most injurious vice, in itself disgraceful to human nature, and the fatal source of innumerable evils, destructive both to the morals of the idler and others, and hurtful in a high degree to families and society.

It is consequently our duty to make the best use of our own for rendering life as useful and comfortable as possible; and, as our own means and application may not always prove sufficient for these purposes, we must endeavour to conciliate the good will and assistance of others.

This leads to another important duty which we owe to ourselves; that we remain in all our actions and pursuits solicitous to maintain a good name and character; for nothing more conciliates the good will and benevolence of others, or renders us more extensively useful in life.

It is true, that a good name and character rest upon the good opinions of others concerning the rectitude of our conduct, and that nothing seems to be less at our command than that opinion: but we may not thence infer that a good name and character are things entirely of a precarious nature or unattainable. A faithful performance of all our duties will attract the notice and influence the good opinion of all the virtuous and upright who know us; to have a good name with them is true honour; nay, virtue has a certain charming power

power even in the sight of those who are votaries to vice, that they cannot but esteem it in others. However that may be, we have cause, for our own satisfaction and contentment in life, to maintain that character; for if the world proves unjust, we ought to do ourselves justice, and defeat, by a steadfast conduct in the line of rectitude, all attacks which envy, calumny or malice may invent.

Among the means given us for the great duties which we are bound to perform to ourselves, is principally *time*: we ought to be careful to improve it by a wise, prudent and diligent management of every thing that is comprehended in our duty to God, to ourselves and to others. Time unprofitably spent is wasted, lost. Our duties in life are great; the time allotted for the faithful performance of them is limited to an uncertain and short space.

It is evident from what has been hitherto explained, that our duties are not only extremely comprehensive, but likewise so variously modified, so intimately connected and interwoven with one another, that all our exertions, all possible care, prudence and circumspection ought to be joined to our purest intention, lest we be wanting to ourselves, and eventually miss that happiness which is, next to the glory of God, the great and ultimate end of our existence.

It is for this end that we should beware of *separating our duties*, which will be the case if we perform some and neglect others, if we are careful in one respect and negligent in others.

Let us not preposterously imagine, that we can be faithful to ourselves without being so to God and to our

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fellow creatures; or that we can please the Almighty, if we neglect the duties to ourselves and others.

Sch. 1.—Hence it appears, that imposing upon ourselves particular hardships and severities under the idea of self-denial, is unjust cruelty committed against ourselves, and by no means a service rational or pleasing to God.

Sch. 2.—It is likewise evident, that we cannot be truly religious if we do not endeavour to be as useful to others as possible, or if we neglect duties which we owe to ourselves and our own household.

Sch. 3.—It is therefore a false notion, if people place religion only in immediate acts of worship, confined to houses of public assemblies, meetings, or the closet; as if those things had a peculiar merit in themselves, and were not ordained or necessary to qualify us for the faithful performance of all our duties in all circumstances, situations and relations in life. It is a high authority that commands us, *whether we eat or drink, or whatsoever we do, to do it to the glory of God.*

Even in that class of duties which has immediate reference to ourselves, particular care and circumspection is necessary to beware of a fatal separation of duties: for it is possible,

1st. That persons may suppose themselves well engaged in their duties towards soul and body, even whilst they neglect things necessary, convenient and useful for life, by squandering away or being unconcerned for an estate, not carefully attending to an useful occupation in life, or slighting the good opinion of others.

2d. That man may confine his care and attention entirely to the soul, neglecting the body and all concern for the means of subsistence and support.

3d. That he may pay all attention to the body, whilst the weighty concerns of an immortal soul are neglected, and whilst he is unmindful of necessary labour and the preservation of an estate.

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4. That persons may engage with so much avidity in the pursuits of honour, preferment and an estate, as to forget their important obligations to soul and body.

Sch. 1.—If we except the superstitious modes of monastic life, there are perhaps but few instances of such as consume their health and substance by too severe application for the improvement of their mental faculties: so much is certain, that a studious and sedentary life requires relaxation of the mind and some bodily exercise for keeping the constitution strong and vigorous.

Sch. 2.—The number of such as wish to shine in literary or great circles, who feel an ambition for dress and a sumptuous way of living, set an example of high life before their children, or bring them up in a higher state than their circumstances permit, may be more considerable. However that be, they are more dangerous to society than the former, as the effects of their extravagance are frequently felt by the industrious part of the community, who have afforded the means thereto without receiving just compensation. Such characters may shine in fashionable life, but they are in reality unjust to themselves, to their household, and to others.

Sch. 3.—The glutton, the drunkard, the spendthrift, &c. serving their bellies, consume the patrimony of their children, lead a beastly life, and are drones to society.

Sch. 4.—The miser, callous to every feeling of humanity, is oppressive and cruel to all who are under his authority, and uncharitable both to himself and to others; his only aim is to gather for his children, who are brought up in ignorance and stupidity, and, like him, remain strangers to both mental and corporeal accomplishments.

Sch. 5.—As these are but a few instances of the evil consequences flowing from a separation of duties which men owe themselves, we may easily conceive how dreadful is the evil if, besides reprehensibility in this particular, a separation takes place in the duties we owe to God and to our fellow creatures.

In each of these cases, nay, in every instance where duties are separated, we act contrary to the dictates of
natural

natural laws; for we do not render ourselves as happy as possible. Instead of performing our duties, we pervert them, and render ourselves guilty of neglect and disobedience.

If, then, the great extent and high importance of our duties be well considered; if our natural infirmity be brought into contrast with the high degree of purity and rectitude which is required in all our intentions and the whole conduct of life, through innumerable temptations which beset us from within and without; we may well conclude, that more is required for our ultimate happiness than human nature in its present state is able to perform.

Must not this lead to another inference, equally rational, of the greatest importance, and perhaps not improper to be introduced here, that *our nature is fallen from its original purity, and must be renewed and powerfully assisted if we are to be happy?* Alas! there are innumerable past offences which, were it even in our power, the most perfect performance of our duties for the future could not erase: and as our best endeavours still fall short of what we know to be our indispensable duty, the prospect of an atonement on our part is as gloomy as the retrospect on our former accumulated guilt.

Reason, however, leaves us not without hope: justice and mercy in God may meet together. A *supernatural* remedy is possible with him who is infinite in power and wisdom, and from his infinite goodness it may be expected.

Hence, in a striking manner, flow both the probability and the necessity, on our part, of a supernatural light,

light, by divine revelation, shewing the way of our reconciliation with the offended majesty of heaven.

If such a revelation be given by God, it must have striking and infallible criteria, by which it may be incontestibly ascertained as such, and thereby distinguished from the false and pretended.

Among the criteria of a divine revelation, the following particularly deserve our notice: that it must reveal a mode of reconciliation which is beyond the reach and power of reason, yet by no means contradictory thereto; that the way of happiness which it points out is perfectly consistent with the glory and perfections of God, and fully adequate to the natural infirmity and spiritual wants of man; that it rests upon an extraordinary and the best established testimony.

Sch. 1.—The first criterion rests upon this plain proof: If there were a way of reconciliation within the reach of reason, an express divine revelation would not have been necessary, consequently not given; for God does nothing in vain.

Sch. 2.—As reason is given by God, and as revelation is necessary for the purpose of affording it more light and elevation with respect to those things which are requisite for our eternal happiness, it is evident, that what is contradictory to reason cannot be a revelation proceeding from God.

We ought, therefore, well to distinguish things beyond the compass of reason, from such as are contradictory thereto.

Sch. 3.—If a revelation should point out a mode of reconciliation contradictory to the divine perfections, it would carry with it the incontestible proof of its fallacy.

Sch. 4.—A mode of salvation which is incompetent for relieving the infirmities and spiritual wants of men, cannot have God for its author; nor is the revelation pointing it out from God.

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Sch. 5.—Men pretending to a mission from God, must be endowed with such gifts as will enable them to prove that mission by extraordinary signs and wonders.

It is therefore a most important duty to ourselves, that we carefully examine into what is offered as a divine revelation, and embrace and follow that which has these incontrovertible criteria of divine truth; for, by a contrary conduct we neglect the use of means requisite for our happiness, are guilty of separating our duty, act contrary to the dictates of the laws of God, both the natural and revealed, and render ourselves miserable.

There is not, nor has there ever been a book in which these and other criteria of divine truth were to be found, besides the bible containing the Old and New Testaments: these exhibit a revelation of the will of God concerning our eternal salvation, worthy a divine origin, and worthy the adoration both of angels and men: here we find doctrines surpassing indeed what finite beings fully comprehend, yet perfectly consistent with reason; doctrines so far from being repugnant to the perfections of the Deity, that they represent them in their full glory. Infinite justice and mercy are shewn in their intimate connection, in perfect harmony, as they meet in a Redeemer's righteousness: God, the holy one of Israel, justifies the ungodly: divine power converts the soul and renews the mind: the spirit of God inspires the heart with the principle of faith and holiness: God works to will and to do according to his good pleasure; man is by grace enabled to work out his salvation.

For this end we also find in these books all duties to God, to ourselves and others, described in their greatest extent and purity: here all is sanctioned with the majestic

estic command of God; death and life are laid before man, and the most cogent motives given for exciting his obedience. The divine perfections, the eternal love of our heavenly Father, the philanthropy, the sufferings, the death, the resurrection, the future judgment, &c. of the Son of God, should strengthen our sincerity, and quicken our diligence in the pursuit of virtue and holiness. The great truths which reason faintly comprehends are here laid open; the immortality of the soul, the resurrection of the body, the final righteous judgment of the Lord of heaven and earth, is brought to full light. There is an eternal and infinitely glorious reward reserved for those who love him. God is all-sufficient, unchangeably faithful.

These scriptures ought, therefore, to be received as the express divine revelation of God for our present and future happiness. They exhibit the most perfect rule of faith and life, given by the highest possible authority, for conducting us in the best manner as men and christians; the most perfect subjection, therefore, is due to its directions.

Hence it follows, that if we neglect the reading, hearing and obeying the word of God, we commit a most heinous offence against heaven and our own happiness.

Sch. 1.—Let us therefore not vainly imagine, that we know enough of our duties when we are able to trace them from natural principles. Let us not rest contented with the glimmering light of reason, but resort daily to the divine revelation. Let us draw from the fountain head, enjoy the full light of the gospel for conducting ourselves conformably to the will of heaven. Let us be sensible of our spiritual wants, and among other things which call for the duties of invocation and adoration before the Most High, ask from the Father of Light that wisdom which

which is from above, and the guidance of his spirit in all the ways of holiness and truth.

Sch. 2.—There is nothing better calculated to give us both light and strength in the performance of the duties of christianity, than the solemn opportunities which the public exercises of religion so frequently afford: these are not only adapted to impress the mind with a most lively sense of the omnipresence of God, and give it that elevation above all things of a transitory nature which enables us to worship him in spirit and in truth; but they likewise remind us continually of our infirmity, set before us the mercies of our God, and engage us in the concerns of an everlasting life and happiness.

Sch. 3.—Let us therefore set a proper value upon these solemn opportunities; let us esteem them as our greatest privileges; let us use and improve them for the great and salutary purposes for which they are given.

Would it not be the height both of indiscretion and ingratitude, if we should refuse or reject the light which is given us for pursuing and obtaining everlasting happiness?

The scriptures set the highest possible pattern of virtue before us; we are not to rest contented with any thing short of the will and perfections of God: *Be ye perfect*, it is said, *as your Father which is in heaven is perfect*. It is true, we shall never be able to attain to that purity and perfection which, as an attribute of the Most High, is unattainable by any finite being; still, by pressing forward we shall, with divine assistance, come nearer and nearer to his image, and may humbly hope, that our sincere endeavours will be acceptable to him, and ultimately rewarded with an exceeding great reward.

The road of virtue is difficult; extremes must be avoided in all our actions; the whole sum of our duties must be attended to, lest we deviate from the path of rectitude, and render ourselves miserable.

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Sch. 1.—No action, not even the best intended, can be *virtuous*, if it contradicts any of our duties: we ought to be as careful not to sin by excess, as we should to guard against deficiency in any of our efforts. Let it be observed, that virtue is a mean between two opposite extremes, which deserve the name of vices, because they are wilful and habitual transgressions against moral rectitude, and against the law and will of God; and that, besides vicious and wilful habits of vice, there are innumerable intermediate deviations from virtue, which constitute greater or less faults, as the will of the agent is more or less engaged, and his conduct more or less conformable to the line of duty.

Sch. 2.—These observations seemed necessary in this place; for, as our obedience cannot but be imperfect in this life, there is danger that we fall into extremes with respect even to our judgment, by being too strict or too lax, by narrowing as it were the path of virtue, that none feels an inclination or discovers a possibility to walk therein; or, on the other hand, by throwing open the bars of rectitude, to flatter vice and render sinners secure.

Sch. 3.—Let us consider that our perfection admits of degrees, and that we are said to be virtuous not because there is no imperfection, no manner of fault in us; this is the state we look for in another life; but we may flatter ourselves to be in the way of virtue, when we grow daily in sincerity, goodness, uprightness and piety—when we hate sin and vice, deny ourselves and the world, and love God in sincerity and truth.

Sch. 4.—We have observed, that each virtue is a mean which has two opposite extremes, besides a number of intermediate deviations; ideas which perhaps will not be generally understood without some kind of illustration.—Suppose the known figure of a circle, with its diameter: if lines be drawn through the points of the circumference which are cut by the diameter, so that they do not equally touch the centre, they cannot be perfectly straight; however, they are far from being as crooked as the circumference or lines near it: compared with these they may rather pass for straight. Thus, as perfection is not expected in human conduct, actions, where the deviation is very small, must not be confounded with eccentricity of conduct:

faults may be greater or less, and so numerous as at last to contract the guilt and eccentricity of vice. Take, for other instances, the highly commendable virtues of *courage*, *frugality* and *piety*; are not the extremes thereof, known by the terms *temerity*, *profuseness*, *superstition*, as remote from them as the extremity of defect, as *cowardice*, *avarice* and *impiety*?—May there not also be defects with respect to those virtues which do not amount to temerity, profuseness and superstition, nor render an agent guilty of cowardice, avarice and impiety?

As duties are actions done conformably to laws, they must be consistent with our moral obligations; nothing, therefore, can be our duty that is repugnant to our obligations. But as obligations and rights are things inseparably connected, it likewise follows, that we must have particular respect to our own rights and those of others, and that nothing can be our duty which is inconsistent with them.

Sch.—Let us then, in all the pursuits and purposes of life, still remember the important question, *Is it right?* As virtue is generally a habit to conduct ourselves conformably to law, we may conclude, that it is of infinite importance early to form such habits as are conformable to the will and law of God, both the natural and revealed; and to guard against any deviation from our duty, lest a contrary habit be contracted, which will estrange the mind from the love of virtue, and render the attainment of it difficult, perhaps impossible.—As we cannot too soon begin the practice of virtue, so there is no maxim, perhaps, better calculated to secure us against vice than this: *Principiis obsta! Beware of beginnings!*

CHAPTER III.

Of the duties of humanity in general.

WITH respect to the duties which we owe to our neighbour, reference may be had to imperfect obligations and laws, which, as they warrant no right of compulsion in any person to enforce performance on our part, leave a compliance with his wishes or applications entirely to our own good will and free choice, without the fear of coercion: or respect may be had to perfect obligations and laws, which, in cases of non-performance on our part, give our neighbour a perfect right to enforce it by coercion or violence. Duties thus considered are of two kinds: the former are called *imperfect duties*, or *duties of humanity*; the latter are known by the appellation of *perfect duties*, or *duties of necessity*.

Sch. 1.—Instances of the first kind we find in the duties of *love, friendship, assistance, gratitude, sympathy, forbearance, &c.* These, as we shall shew in the next chapter, we owe our neighbour, and of them, in one or the other respect, he may stand greatly in need; but, as he has no right to enforce their performance, his only reliance is on our good will: if this should fail, nothing remains but patiently to bear the disappointment, or repeat his application in hopes of better success.

Sch. 2.—But it is quite a different thing with respect to the duties of necessity: for instance; the *payment of taxes by a citizen*, in consequence of the directions of the laws of the land; the *obedience due from an officer to his general*, from a *soldier to his officer*; the *labour which a servant is to perform for his master*; the *payment which a debtor must make to his creditor*. Here government may compel the citizen, the general the officer,

officer, the officer the soldier, the master the servant, the creditor the debtor; as the laws give each respectively the right, in case of non-compliance, to enforce it by coercion and violence.

Treating in this chapter of the duties of humanity in general, it may not be amiss, perhaps, to apprise the reader, that there are writers who have expressed a wish for terms to denote duties of the first kind more suitable than the expressions *imperfect duties*, or *duties of humanity*; terms which, they say, are very apt to convey the erroneous ideas, either that there is something of a defective nature in those duties, with respect to their internal beauty and excellency, or that the performance of them is less cogent and necessary than that of perfect duties; whereas those duties which established use designates by these improper terms, are the most exalted in their nature, the most excellent of all our duties; and the faithful performance of them constitutes the greatest ornament of the human character.

However, as in all sciences attention is necessary to the definitions of subjects on which they treat, in order to avoid misapprehensions and mistakes, let it be observed, that this is more particularly requisite in instances like the present, where language furnishes only such terms as at first sight seem to favour ideas repugnant or derogatory to the objects which they are intended to designate.

Upon this consideration, as our definition is well calculated to impress the mind of the reader with the internal beauty of these most, nay only, excellent duties, we may expect, that a due attention thereto will secure him against any improper idea which the common use of these terms might be supposed to suggest.

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And will not this supposed impropriety vanish, if these expressions are taken in a true reference to their specific objects?

What impropriety is there in calling duties imperfect, to the performance of which our neighbour has but an imperfect right?

And may not those duties be called duties of humanity, which are done from an inward sense of obligation, without any controul or fear of compulsion? Certainly, if free agency is, what it really is, the glory of human nature, then the entirely voluntary exercise of this heavenly gift, in the pursuit of actions of the highest excellency and rectitude, cannot fail to be highly ornamental to the character of man, and becoming the dignity of human nature.

What serves still more particularly to impress the mind with a due sense of the great importance of these duties, and should quicken our diligence in faithfully obeying the gentle precepts of the laws of nature and of nature's God, inviting us to the most cordial performance of our obligations, is the consideration that all our duties, whatever their immediate objects may be, are either duties of humanity *in themselves*, or may and ought to be *made such* by all who set a value upon virtue and the approbation of a good conscience; for no moral action is conceivable but where room is left for choice, and where, in some degree or other, it depends upon our spontaneity, whether we will do or omit it in a manner consistent with our internal obligations, or in consequence of the degrading principle of servile fear, or dread of violence.

It is on this account that a faithful observance of the duties to God and to ourselves so much heighten the excellency

excellency of the human character; they are in themselves duties of humanity, depend upon our free choice, and give free agency the most ample scope; internal motives actuate the mind. We act worthy of ourselves if we conduct ourselves as rational beings, by glorifying our Creator and Preserver, and by advancing our own felicity.

If we ever love God, we must love him freely; no forced service is acceptable to the Deity: he requires the heart in all, and this we ought to offer him freely.

No action that is done or omitted with respect to ourselves, can be a virtue, or in any degree ornamental to human nature, which does not proceed from an internal sense of duty, and is not done in sincerity and truth. An human agent forced to do a profitable action, is in that instance as little above the level of brutes as his action has internal merit. These cannot act freely, but must be forced into a compliance with our wishes.

In all acts of impiety, impropriety, indecency, injustice and oppression, man abuses free agency, sins against the dignity of his nature, and degrades himself far below the order of beasts.

Behold both the excellency and necessity of a most careful performance of the duties of humanity, with respect to God and to ourselves!

Of the same nature are our duties with respect to the brute creation and to other things of an inanimate nature: he who should think that we might conduct the management and use of them in quite an arbitrary and capricious manner, would give us but indifferent proofs of his understanding and heart: both reason and revelation point to the wise and benign design for which

which they are given: by abusing them we render ourselves ungrateful to God, and act in a manner unbecoming the rationality of our nature.

Though the dumb creature cannot set up a claim of perfect right; though things inanimate have no sense of pain or satisfaction, like the former; and though neither of them can apply force to avert tyranny or abuse; still there are duties on our part, duties of humanity: we ought to conduct ourselves in that respect, as indeed in all other occurrences of life, conformably to the will of God.

Sch.—Shew me a man who is cruel and inhuman to brutes, who wantonly destroys or abuses other things; thousand to one but you point out a person who cares little for God and his own conscience.

We have already seen, that some of the duties to our neighbour, that is to say, to our fellow creatures, are in themselves perfect, and liable, in respect of performance, to violence and compulsion. However, it may be easily discovered, that we can make them on our part imperfect duties, by preventing the exercise of our neighbour's perfect right, that is to say, by doing freely, from a sense of our duty, what another has a right to enforce. Perfect laws warrant force only in cases of reluctance, delay or opposition; there is, consequently, no cause to fear violence where it may not be exercised. The strictest duty of necessity may therefore, without any shadow of doubt, be made with us duties of humanity.

Whatever our social connections may be, we should feel an ambition to perform our duties from choice rather than from fear. Prudence and a tender regard for our repose and character require, that we should

should lay more stress upon the will of God and the internal sense of our duty, than upon the consideration that others are possessed of perfect rights, or that there are compulsory remedial rules provided by perfect laws: these are against the unruly, the disorderly, the dishonest, the unjust part of society, for the purposes of protecting the upright and conscientious man, who is actuated by the impulse of his internal obligation, and does freely what is right.

Sch.—Here we may advert to what scripture declareth, *the law is not made for a righteous man.* 1 Tim. i. 9.

Would it not be, as it were, a new heaven and a new earth, if the practice of the duties of humanity should become co-extensive with the human race, compassing all that is or can be an object of human thought and desire? Behold man, the obedient servant of God, the beloved object of his complacency, the friend of his Creator! Strenuous and indefatigable in the pursuit of virtue, behold him an ornament to himself and to human nature! Behold all men, united in virtuous sentiments and in mutual love, conspiring in their endeavours to glorify their Maker, zealous to befriend one another and to be benefactors of brutes, all of one accord endeavouring to make the wisest and best use of the gifts of Providence! all causes of strife, animosity, hatred, envy and litigation done away among the children of men! Behold a faint picture of human happiness, which virtue, were it universal, would produce a happiness where nothing is wanting but greater perfection in our nature, and a more lasting, nay, an everlasting duration!

But alas, the world has at all times, even to this day, exhibited human conduct in direct opposition to this pleasing

pleasing and desirable representation. We have not lived to see virtue's gentle reign; the earth groans under oppression, and its inhabitants for the greatest part wear the chains of bondage.

Courts of justice are frequently scenes of heinous intrigues and other secret vices, and often become engines of crying injustice. There we behold brethren in discord, litigation and strife! Little of humanity is discovered in human intercourse, and mankind have learned to make up for the loss thereof by the empty ceremonial of etiquette, by the shadow of good breeding, and by unmeaning compliments. Where liberty yet upholds her standard, where humanity should shine in an amiable display of social happiness, we find frequent instances of illiberality and licentiousness. But why should we enlarge on things which daily offend an observer's eye? There is rather cause to look to ourselves, reform what is faulty in our conduct, and take an animated resolution to do our part, by sincerely and strenuously pursuing virtue, and performing all our duties in the best possible manner. By such a conduct we may expect the blessings and favour of God, advance our own happiness, and spread felicity abroad. Let us thus prepare for that kingdom of peace where unity, joy and happiness for ever last.

CHAPTER IV.

Of the duties of humanity which we owe to others.

SINCE it is the obvious course of nature, and of consequence the wise plan of the government of God over the concerns of the human race, that no man can

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be happy in a state of solitude, but by that kind providence which determined his existence is made immediately dependent upon others, not only for life and the enjoyment of its comforts, but also for such acquirements and qualifications as enable him to perform duties to his creator and preserver, as well as to himself, in order to be pleasing to God and to render his own state happy: it is manifest, that it is the will of God that men also perform duties to those who are endowed with the same rational nature, and inhabit the same earth as fellow members of the universal society of mankind, of which God himself is both the author and the supreme ruler and governor.

To this end his laws extend to all men, taking cognizance of all their moral actions: the rules which they prescribe are designed for directing human conduct, and of course the actions of each individual of the human race; the precepts and prohibitions thereof are equally interesting to all who desire to glorify God and to be happy. It cannot, therefore, be a matter of indifference, how men conduct themselves with respect to one another, whether they make use of their talents and gifts, and the opportunities allotted them, for the benefit, or apply them to the hurt and detriment of others.

God is so far from giving his gifts in vain, that, on the contrary, he commands all the good we can do to others, and enjoins us by his laws to take motives from his perfections and ways towards the children of men. It is not only by internal acts of piety, but by an upright and irreproachable conduct before men, that we must glorify him, and thus excite our fellow creatures to that reverence, love and obedience, which they owe to their creator, preserver, and supreme governor.

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As rational creatures, daily experiencing and partaking of the dispensations of the love, mercy and beneficence of God towards man, we ought to copy from the divine original; by delighting in the happiness of others; and by using all our powers for promoting the welfare of those around us.

Hence it appears, that we have not only duties to be observed towards our fellow creatures, but that these duties are of the highest importance, as sacred and necessary as those which are due to God. How is it possible that our religious professions can be sincere, if we do not endeavour to resemble the deity, if we feel not affection and love for those who, as well as ourselves, are the objects of his tender love and regard.

Nay, these duties are so interesting and necessary, that without a faithful observance of them we cannot perform those duties which appertain to ourselves; our daily experience so incontestably evinces the necessity of the agency, participation, aid and assistance of others for the attainment of our own happiness, that without the one and the other we could have never obtained life or continued therein, much less have enjoyed or been partakers of any of its comforts. Any action, therefore, towards others, which may incline them to withhold us their necessary aid and assistance, becomes a duty to ourselves; that, on the contrary, which might induce them to withhold their good offices or obstruct our happiness, is injurious to our own true interest and repugnant to the first principle of natural laws, which commands us, by every just and lawful endeavour, to render our state happy.

It is, therefore, most evidently manifest, that God the creator and preserver of mankind, has connected
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the individuals of the human race by the natural ties of mutual duties and reciprocal good offices, as well as by identity of nature, wants and inclinations. His government over mankind, which must necessarily be the most perfect, is at the same time exceedingly gracious and benign. Human happiness, in which God will be glorified, is most wisely provided for by laws, which enjoin one common interest to all, founded upon the invariable nature of things, whereby *each person best promotes his own real interests and happiness, by endeavouring as much as possible to promote the felicity of all men.*

Upon this plan all natural relations among mortals are founded. Men, by the design of their creator and the precepts of natural laws, are vested with equal rights in cases where it may be requisite to expect the help and assistance of those who are in a situation to afford it, for without this human happiness cannot exist. Those who are endowed with faculties, talents and gifts, are, on the other hand, equally under obligations to apply them for the benefit of others, where an opportunity offers for promoting their felicity. Force and compulsion find place only where one hinders another in the use and possession of his own faculties and gifts, and thus obstructs his felicity; but not at all where we have to use our own powers for our interest and the benefit of others: for these we are accountable only to God and our own consciences. We are not here to be directed, in the use of our own powers, by the claims or desires of others, much less by force and coercion; but the will of God and our own happiness are motives sufficiently strong to incite us to use them for the great end for which they are given us, and for which we are placed in the world.

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Hence it appears, that all our duties to others which flow from natural relations, are duties of humanity, which call for the exertion of the nobler faculties of the human soul, for a conduct conformable to the will of the Almighty, and becoming the dignity of our nature.

As their immediate object is all that may contribute to the well-being and happiness of mankind, so are all their injunctions uniformly calculated to excite the human heart to the practice of love and philanthropy. Duties of humanity to others are therefore *duties of love*: nay, this virtue is both their sum and basis. *Love thy neighbour as thyself*, says the heavenly precept; which is one of those principles of natural laws which, among others, has obtained the particular sanction of the will of God, declared in his word, in order to impress our souls both with the great importance and the necessity of a faithful performance, in all possible relations, where it is in our power, and where opportunities offer for exercising this great duty. In this extent the term *neighbour* is taken in the revelation; and the divine word is just in other terms enjoining what the duties of humanity require, to wit, that we should love all men; for how can we love God if we do not love those who are the objects of his affection and care?

We must, therefore, feel an interesting concern for the happiness of all men, delight therein, and sincerely endeavour to promote it as much as possible; for this is the nature of true love, and one or the other of these acts may take place in our conduct towards our fellow creatures, whose situations and relations are such as render the performance of all of them impossible or impracticable. It is here in particular that

that the distinction into love of affection, of complacency and of communion should arrest our attention; for from our own abilities, which in many respects are limited to a very small extent, as well as from the various relations and situations of others with respect to us, it would be impossible to love all men, if it were requisite that we should love them equally and with the same degree of concern and affection. To take equal delight in persons, to conform to their desires and ways, our duties to God and to ourselves strictly forbid. There are persons, relations and situations more immediately interesting to us than others: we meet with sentiments among our fellow creatures more frequently contrary to than congenial with our own: men differ vastly in their conduct, and cases frequently occur, which create in us disgust and merit our disapprobation: there are some who favour our designs, whilst others are unconcerned about our interests, or even oppose them: both our acquaintance with persons and our general knowledge of individuals are very much limited, whilst the greater part of our fellow creatures remain to us utterly unknown. There is indeed no calculation to be made of the various modifications of the extensive object of love; and the consequence is, that love in every respect must be variously modified.

Neither can it be the design of God that we should love all men with the same degree of ardor and affection, or in the same manner and to the same extent, since he himself observes a difference in the dispensations of his providence, and variously qualifies the children of men for the respective duties of life. All men have the same nature, but not the same talents and gifts;
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all are inhabitants of the earth, but not of the same climate and soil; all are liable to wants and infirmities, but these are vastly diversified, as well with respect to their nature and extent as to their duration; all may contribute to the happiness of others, but not in the same way, degree and extent.

In short, talents and gifts, wants and superfluities, situations, opportunities, and other circumstances in life are so distributed among the individuals of the human race, and all things so ordered, that men may supply the wants, alleviate the sufferings, and in a certain sphere prove instrumental in promoting the felicity of others. What our situation and power cannot reach, we may reach by our good wishes; where no other power by immediate good offices is left us besides this, others may have both ability and opportunity to assist more effectually. We have to act our part and perform our duties faithfully as far as we are able; and there is no doubt but our example will prove instrumental in exciting others to emulate our conduct:— Thus, if every one is assiduous in the exertion of his powers for the promotion of the interest and happiness of others, love will be effectually extended to all, and universal harmony will prevail.

How inseparably and how nearly has divine providence connected the interests of parents and children! How necessary is dependence for mutual offices between relatives, between the sexes, and those who, in the strict sense of the word, are neighbours! for without such provision made for life, its preservation and necessary support, human happiness could not exist. Love and affection, attachments and intimacy there result from instinct, or are passions of the human mind which
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naturally arise from the necessary and unavoidable intercourse with one another, and dictate an assiduity, to please, and produce mutual assistance and reciprocal offices so necessary for the being and welfare of mankind. But let it be remembered, that they are still effects of natural instinct or acquired habits, and only so far consistent with human happiness as their direction and extent are consistent with that noble virtue which the natural laws enjoin as the first duty of humanity. If parents truly love their children, their natural fondness must often give way to the exercise of parental authority, wounding their tenderness as much as it bears hard upon the humours and caprices of children. In one word, the duty of love is to be the directrix of all the intimate ties of blood and affections, as well as every relation of life, however distant and remote: we are not to accommodate ourselves to the sentiments, desires and expectations of others, except it be in cases where they agree with the dictates of natural laws, where consequently compliance is in our power and consistent with our duties to God and to ourselves: if the contrary should be the case, our love to others enjoins, that we conduct ourselves quite otherwise than they may expect, that we even cross their designs and incur their displeasure.

Whatever, therefore, the relations of life and the dispositions and desires of our fellow creatures may be, the duties of humanity enjoin true love towards them, and require that we endeavour as much as possible to promote their true interests, and thereby advance their real felicity.

Little as instinctive love, or habitual attachments arising from familiarity or an unavoidable intercourse
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with others, ought to be taken for the excellent duty of love, so little does this virtue consist in that natural tenderness and sensibility of heart, which, as it is effected by a certain state of the nervous system, proceeds from the constitution of our body, and is known by the term *good nature*. All that can be said of either of them, and more particularly of the last, is, that they are only so far innocent and salutary, as they are under the guidance of reason, and directed by that sincere desire to promote the happiness of others wherein true love consists.—Good nature may be particularly considered as a natural disposition, exciting us to the exercise of the duty of love to others, but is far from being love in itself; for, independent of a possibility that this easy disposition is liable to impositions and mistakes, and has frequently proved ruinous to its possessors and others, it is very evident, from the principles of natural law, that we have neither to depend upon the sentiments and desires of others, nor upon our own feelings, where our duty requires obedience to the laws of God and a solicitude to take our motives from his holy perfections and ways towards the children of men.

Sch. 1.—We ought to guard against the childish opinion so much in vogue in human intercourse, by which all that is agreeable to our notions and desires is taken for love, and the opposite thereof for disaffection or hatred. Thus shameful neglect of duty, ruinous indulgence, flattery, hypocrisy, &c. meet with approbation and a welcome reception; whilst the reproofs, admonitions, counsels, exhortations and expostulations of parents and friends pass for austerity, ill-nature, disesteem, and want of affection.

Sch. 2.—Want of complaisance is a great fault in the human character; but complaisance may be carried too far, and prove to be the ruin both of ourselves and others.

If our own feelings have no controul over the exercise of the duty of love, it is evident that we must even

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love our enemies; for, from the law of nature and the precepts of the gospel as well as from the very nature of love, it can be proved, that every thing which is good, excellent and desirable in itself, or wherein there is any thing of this kind, is an object of our concern, desire and affection. Let us suppose persons to be our enemies, savages, barbarians, drunkards, profligate characters; we confess there is no possibility to feel complacency in their conduct; but still we can and ought to love their persons; they are men, rational creatures endowed with human nature, our fellow citizens on earth, fellow subjects of the supreme government of the Most High: the same laws which enjoin unto us obedience to the will of God, in order to obtain his favour and our own happiness, impose on them the same duties towards us that are required at our hands towards them.

There are indeed many weighty causes why we entertain a greater affection for our nearest relatives and neighbours, for friends, and persons of a virtuous conduct in life, for acquaintances, townsmen, countrymen, &c. than we commonly feel, or can feel for strangers, enemies, profligate or wicked characters: but there is not one just cause why we should hate or entirely withhold our love from the latter. If we are duly impressed with an esteem for the dignity of human nature, we will regard it in others; if we think it necessary to conduct ourselves conformably to the will of God, we will esteem it as a duty to love all men.

From what has been hitherto explained, it is manifest, that love undergoes innumerable modifications, keeping pace with the various relations, situations, dispositions, tempers, qualities and modes of conduct amongst men.

In consequence of these modifications, love is distinguished into many virtues, the most principal of which are denoted by particular terms: love, when it embraces the concerns of the whole human race, is called *philanthropy*: a heart animated by this virtue wishes well to and thinks well of all men, and is amicably interested both in their prosperity and adversity. Philanthropy has therefore for its concomitants the amiable virtues of *universal benevolence, charity and sympathy*.

Acts of universal benevolence, exercised to foreigners and strangers, who happen to come within the sphere of our knowledge or agency, constitute *hospitality*.

Love to our country, that is, the virtue of *patriotism*, not only enjoins, that we should feel the utmost solicitude for the prosperity, safety and preservation of the rights of our country against all external and internal violence and machinations, but also requires a particular regard for the persons and concerns of our fellow citizens. How becoming are acts of friendship to those who are our fellow citizens, connected with us in one common interest! Love here enjoins the duties of *civility*.

Love, in the distant relations of citizenship, enjoins, according to different states and circumstances of life, the various acts of friendship and civility expressed by the terms *respect, esteem, affability, regard, generosity, politeness, meekness, lenity, complaisance, &c.*

In the nearer relations of acquaintance, the last mentioned duties ought to be performed with a still higher degree of affection and complacency, because they more nearly concern our interest, and are highly necessary for sweetening and endearing that daily intercourse which our relative situation renders unavoidable.

Among

Among relatives and those who are the constituent members of families, there ought to reign the highest possible affection, exercised by the most sincere *faithfulness*, an unalterable *attachment*, a particular *tenderness* and rational *friendship*.

Sch.—How sincere, prudent, faithful, &c. should be the love of parents to their children! How affectionate, grateful and obedient should be children towards their parents! What ornaments are gentleness, moderation and reasonableness to heads of families! How desirable are faithfulness and obedience in those who are under their command and care!

Human misery calls for love of *compassion* in various degrees, which is to be exercised by acts of *charity*, *benevolence*, *humanity* and *philanthropy*.

That prosperity may attend the ways of our fellow creatures, is the wish of a heart filled with benevolence and love; we should therefore feel *satisfaction*, and even *exult* in the welfare and happiness of another.

The virtuous and upright man ought to possess our heart, be high in our esteem, meet with our countenance and applause; whilst a friend deserves our confidence; a benefactor our sincerest gratitude.

The disorderly, the profligate, the wicked leave room for *pity* and *compassion*; the enemy for *forgiveness*, *forbearance*, *moderation*: where there is no merit we may exercise *generosity*: persons who have contracted demerit and guilt, have yet a claim to our *humanity*, to *magnanimity*, *grace* and *mercy*.

Nay, there is no state, no situation, no relation in life, where we may not exercise the duties of love and humanity.

It is therefore criminal in us not to love our fellow creatures: it is an act of the greatest inhumanity to *bate* them.

Hatred

Hatred is the opposite of love, and consists in envying our neighbour's happiness, or endeavouring to render his state miserable.

As we should endeavour to love all men, so it is our duty to beware of envying or hating any person, or of giving any occasion why they should envy or hate us; for, in either of these cases we transgress the laws of nature, and render our state unhappy.

Those who hate us are called our *enemies*: the criterion of friendship is love.

It is a duty that we entertain friendship for all, and be at enmity with none.

Friendship, a proclivity to love others, is distinguished into *internal* and *external*. Internal friendship consists in an inward and sincere desire to render the state of others happy; external friendship comprehends acts declarative of that intention.

Since it is our duty to love all men, it follows, that we are under a most sacred obligation to exercise internal friendship to all, even to enemies and the most wicked and profligate persons; for they are men, and therefore objects of our love.

But external friendship may often become both physically and morally impossible; that is, acts declarative of the friendly disposition of our heart may not be in our power, or may be contrary to our duty.

True and lasting friendship is one of the greatest comforts of life, and is only to be expected among persons of virtuous conduct and intentions. Powers may fail to give sufficient vent to the tender sentiments of the heart; but it never can be contrary to duty to make a true friend a perfect confidant, a partaker of all

all our concerns, and to exercise towards him every act of friendship in our power.

Among the various duties which are due to an enemy, remember this as particularly requisite, to endeavour, by all just and lawful means, to *soften* his resentment; that is, to cause a high degree of his hatred to become less; for the greater his hatred and animosity towards you, the more he will be determined to do all he can to your detriment, the greater consequently is your danger; but by weakening his resentment the danger will be diminished, and your state in that respect rendered less imperfect. The same argument likewise proves the duty of making him your friend, as far as it is in your power and consistent with your duty.

External proofs of friendship consist principally in lending to others our aid and assistance: we aid and assist if, by our agency, another is caused to obtain his end. As it is our duty to befriend others, it follows, that it is also a principal duty to aid and assist them in all cases where our assistance is wanting and where the end is lawful. Where assistance is not in our power, we are justified in making excuses: where the end proposed is unlawful, or where it may be attained without our aid, there duty warrants a refusal; for it can never be our obligation to do a thing that is unjust or unnecessary.

Sch. 1.—He, therefore, who has it in his power to help himself, has no reasonable claim to our aid and assistance.

Sch. 2.—We may aid and assist in as many different ways as we may become the moral cause of the actions of others; for in all actions which take place in consequence of our assistance, the effect is to be attributed to our will: by aiding and assisting, therefore, we claim merit in all good actions done by others, and contract demerit in all that are of a contrary nature.

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A proclivity of the mind to aid and assist others is called *benevolence* in the restricted sense: actions declarative of benevolence constitute *beneficence*: the author of such actions is stiled *benefactor*.

As benevolence is the soul of internal friendship, so beneficence is the effect of that which is external: benevolence consequently is unlimited in its nature and extent; but with respect to beneficence, it is requisite that it be in our power, and regulated by our duty and other circumstances.

To be the benefactor of mankind, is to be in a manner to our fellow creatures what God is to the human race.

Love to a benefactor is *gratitude*; all motives for love are therefore motives for gratitude, and each benefit received should impress the soul with grateful sentiments, and engage us to express them by suitable actions towards our benefactors. Ingratitude, want of love, or hatred towards a benefactor, is beyond expression horrid, inhuman and unnatural.

Sch.—It is therefore a very humiliating spectacle, manifesting the great corruption of the human heart, when we see men ungrateful to their maker and preserver; children to their parents; citizens ungratefully abusing the blessings of peace and of liberty, &c.

Before we conclude this chapter, we think it necessary to remind the reader, that what has been observed of friendship and benevolence, with respect to the distinction of the internal sentiments of the mind from the external acts declarative of them, holds good in all other duties of love and humanity. A concern for and an endeavour to promote the happiness and mitigate the sufferings and misery of others, we
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can and ought always to feel; but it may not be in our power, or it may be inconsistent with our duty, both in respect of our situation, and the particular circumstances wherein our neighbour is placed, or often places himself by indiscreet and improper conduct, to participate with him, and to aid and assist him as we might otherwise wish. We cannot, for instance, forgive an injurer at the cost of a neighbour, or of our country: we may not shew lenity where its effects countenance vice. Parents, who truly love their children, must often wound their own feelings, and resort to means of a disagreeable nature. God himself chasteneth those whom he loveth.

It remains for us to speak of the means by which the knowledge and practice of these duties may be greatly facilitated. With respect to the former, it will not be amiss to listen to the voice of nature, to study carefully the natural principles of morality, to read those books which treat of our duties in life; but, as there is not, and indeed cannot be a more pure and perfect system of morality than the *gospel*, and as the duties of christianity exhibited therein are those of humanity, strengthened by the purest and most powerful motives, and sanctioned by the express will and command of our divine Redeemer, we should be highly culpable if we were not solicitous to consult daily this heavenly monitor, in order to learn with the greatest possible conviction, what is our duty in every circumstance of life. There is not a more pure and perfect pattern to copy after than the author of that gospel, the author and finisher of our faith, who forgave his most cruel enemies, and has so loved mankind that he has given himself for them.

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He has loved men more than himself, and commands that we love our neighbour as ourselves; that we should be ready and willing to do unto others as we wish they should do unto us.

Sch. 1.—We ought consequently to *think well* of our neighbour, not to give an easy ear to backbiters, nor countenance the tongue of the slanderer: when truth and a conviction thereof forbid the exercise of universal benevolence towards him, charity and sympathy command, that our hearts feel sorrow and regret. To delight in the faults and in the wretchedness of others, is a sure sign that true love is yet a stranger to the heart.

Sch. 2.—We should *speak well* of our neighbour, acknowledge his merits, honour his virtues: is his conduct such that we must cease to commend his actions, we ought to consider the fairest side of his character, and feel heartily sorry when we can no longer praise him. To commend and discommend are things very different: a loving heart throws a cloak over all faults, which no higher duty commands to reveal; that which is destitute of love sports with the foibles and faults of another. There is no vice more inhuman than spreading the tale of actions, which, if done by ourselves, we would wish buried in eternal oblivion; because truth is here frequently mingled with untruth: other intentions are often suggested than were entertained by the unfortunate author; foibles are made faults, and these are again transformed into vices. Suppose all were true, who is edified thereby? certainly no person: but such a conduct is always attended with bad consequences: the voice of calumny steals the heart of the calumniator as well as those who give him countenance against that love which we should have for all. Many temptations are avoided by our thinking well of others; and thousands would not be thought or heard of, were it not for idlers, who busy themselves abroad whilst they neglect their duties at home: pretending an acquaintance with every person's ways, they remain strangers, entire strangers to their own folly and their own hearts.

Sch. 3.—We should finally do all the good we can to advance the comforts, the interests and felicity of others, to spread the balm of consolation and extend relief as far as possible.

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Thus our life will be a general blessing on earth, our conduct ornamental to society, whilst our nature attains to the highest excellency, a conformity to the will and ways of God.

CHAPTER V.

Of the duties of necessity.

WE may neglect duties which we owe to others either by not directing our powers, faculties, talents and gifts for the advancement of their happiness, or by applying them to their detriment, hindering and disturbing them in the use and possession of their powers and faculties, by which they might promote their own interests. In either of these cases we act contrary to our duty, with this difference, that in the former we sin against the dictates of the imperfect laws of nature, act inconsistent with the imperfect rights of our neighbour, and omit those acts by which we should endeavour to render his state more happy: in the latter, we render his state more unhappy, transgress laws, and act contrary to rights which are perfect.

An action done or omitted contrary to the imperfect laws of nature, and repugnant to the imperfect rights of our neighbour, we call a *breach of duty*; that which is contrary to perfect laws and rights, is *an injury*.

Sch. 1.—The criterion of a person internally honest and upright, humane and conscientious in his conduct, is, that he guards as much against a breach of duty as he is averse to doing an injury; for he acts principally from a sense of his internal obligations, regulates his conduct conformably

ably to the dictates of perfect laws, and carefully regards the precepts of those which are imperfect.

Sch. 2.—Not every omission of what is deemed a duty of humanity is immediately to be construed into a breach of duty; for innumerable cases may occur, where a collision of duties supersedes the performance of those which are not as highly obligatory as others with which they happen to clash. We may deny the poor charitable assistance, when our household stands in need of those things which are required for that assistance.

Sch. 3.—In all cases where duties of humanity to others clash with perfect duties, the latter supersede the former; for perfect duties proceed both from internal and external motives; the obligation is therefore stronger. By neglecting a duty of humanity, we transgress imperfect, but by neglecting a duty of necessity, we sin both against imperfect and perfect laws.

Add to these considerations, that by neglecting a duty of necessity, we render ourselves liable to force and violence, which our neighbour has a perfect right to use; the consequence is, that we render our state imperfect.

We may not lend money which is due to others: when it is our duty to administer justice, we may not take considerations from the principles of humanity which might counteract impartiality: we may not, in any respect, do evil that good may result therefrom.

Sch. 4.—As a strict adherence to the duties of humanity on our part may prevent the exercise of the perfect right of which our neighbour is possessed, so a careful observance of them is necessary for exercising perfect rights and performing the duties of necessity in the best possible manner. We may claim our due in a rough or in a gentle manner. We may exercise justice impartially, though it be administered with as little rigour as possible. Where we cannot spare, we may feel and shew pity and compassion, &c.

If an action done or omitted contrary to perfect laws and rights is an injury, it is plain, that no person can be injured, except he be hindered and disturbed in the use and possession of his own; for it is only in this that he can have a perfect right.

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To prove that we have sustained an injury by another, we must confirm two truths: first, that the thing in which we pretend an injury to be sustained is our own; secondly, that we have been hindered in the use and possession thereof by the agency of another.

Sch.—Every evil we suffer from others cannot, therefore, be considered as an injury.

It is a perfect duty, that we *do no injury to any person*; for perfect laws enjoin that we should not invade the perfect rights of another.

Since we do not invade another's perfect rights if we give him his own, it follows, that the duty which enjoins us to do no injury to another, requires that *we give every one his own*.

We *prevent an injury*, if we make use of all lawful means in our power, short of violence and compulsion, to dissuade others from hindering or disturbing us in the use of our own: we are said to *repel an injury*, if we resort to force and violence for the purpose of averting it.

Since it is a duty not to suffer ourselves to be hindered or disturbed in what we have a perfect right to direct for the promotion of our own felicity, it follows, that it is a duty which we owe to ourselves and others, if possible to prevent, or, should this fail, to repel an injury.

Sch. 1.—As the duties of humanity, of love and benevolence dictate all possible care for the prevention of injuries, so a strict adherence to them, in all our conduct, will be the best mean to secure us against the shafts of calumny and other injurious attempts prejudicial to our life, property, character, and good name.

Sch. 2.—However proper these means may be, when we have to do with persons who are not deaf to the voice of reason, they cease to be means with those who are carried away by passion, and are obdurate and insensible to their duty;
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for they will not produce the proposed end: force and compulsion must be resorted to, and exercised to such a degree as will cause the aggressor to desist from his injurious intentions and conduct.

Sch. 2.—The right of repelling an injury extends to such means as are sufficient for averting it; those which are more violent than is requisite for that end, are improper and unlawful.

The two propositions, *do no injury*,—*give every one his own*, may be considered as the first principles of all perfect laws which regulate the conduct of men.

Things are our own, either by *nature*, as life, soul, body, our members, health and absolute natural rights; or by *acquisition*, as accomplishments of the body and soul, honour, character, estate, and all acquired rights both in things and in persons. There are therefore various ways in which we may do or suffer an injury.

Hence it is, why civil laws distinguish them into various classes, each of these into many kinds, and each kind into different species. These classes, kinds and species are formed into general and specific laws, under which each injurious action is respectively brought, in order to determine the degree of its demerit, and the manner in which remedies are to be applied, that the injured may obtain justice.

Sch.—We need not therefore be surprised at the multiplicity of civil laws; nor ought we to give an ear to those who disclaim either the practicability or necessity of reducing laws to first and invariable principles, and the study of them to scientific rules.

There can be no injury conceivable, or it must ultimately proceed from a violation of both the aforementioned principles of perfect laws. The following two

two instances, which we shall give of general laws deduced from them, will shew the easy mode of deduction, and serve to lead us to the knowledge of the spirituality of laws.

The law, "thou shalt not kill," reduced to the principle, "do no injury," is this general rule, *do not injure thy neighbour's life*. Whatever therefore is injurious to the life or health of our neighbour, or endangers either one or the other, is repugnant to the law, "thou shalt not kill."

If we refer it to the principle, "give every one his own," we find that it enjoins upon us a care for our neighbour's life and health, and requires our protection and assistance, if one or the other is in danger.

The law, "thou shalt not steal," referred to those general principles, prohibits, on the one hand, all manner of violence, hurt, damage, fraud, &c. by which our neighbour may suffer injury in his property; and, on the other, enjoins, that we afford assistance if it is in danger, and make discovery when we know it is purloined, &c.

Sch.—There are, besides these considerations, innumerable modes in which injuries may be committed and sustained: in some, an agent may act culpably, in others maliciously. Laws justly make distinctions not only with respect to the nature and effects of injuries, but likewise to their immorality, resulting from the intention of the injurer. There is on this account a vast difference made between the punishment of man-slaughter and that of murder, &c.

By *damages* we understand evils arising from injuries.

Damages are distinguished into *immediate* and *mediate*; the former are the immediate, these the more distant and remote effects of injuries.

Immediate

Immediate damages are easily perceived by the natural effects which injuries produce at the time when they happen or are discovered: for instance, the forging or passing a false note, at the value of ten pounds, causes the receiver a loss of ten pounds.

Mediate damages are the remote and general consequences of an injury: for instance, the stealing a horse, feed, or plough, or an essential part thereof, particularly in a place or under circumstances where the loss cannot be immediately supplied, is in its immediate consequences not so considerable as in those which are remote: consider, that the owner of the horse, of the feed, &c. cannot sow; the consequences will be, that he cannot reap, cannot support his family, or stand to other weighty engagements.

In civil society, great stress is to be laid upon the consequences, to which actions lead, and which they would produce should they become general; if forging becomes common, no note will pass; if stealing or desertion become general, there is no security for property, no possibility of defending the country.

Sch.—Civil laws are therefore justly severe in punishing actions which are dangerous in their remote and general consequences.

To prove a damage, it is not sufficient to make it evident that another has been the author of an action which has caused us inconveniency or loss; but we must also make it appear, that the action complained of is an injury.

The same duty which enjoins us not to do injury to any person, forbids doing damages.

We

We make *reparation* for injury or damage, if we cause the evil arisen therefrom to cease.

It is a perfect duty that we make reparation for injuries and damages; for it is our duty to commit neither the one nor the other; but as long as evils arisen and arising from injuries are suffered to remain, so long injuries continue, and so long we sin against the laws, "do no injury,—give every one his own." The dictates therefore of natural law forbidding injury, and enjoining us to give every one his own, likewise command the reparation of injuries and damages.

Hence it follows, that reparation is to be made according to the law, "give every one his own."

It is in two ways that this law may be satisfied; either by returning another's own in kind, or, where that is impossible, by an equivalent.

If we give to the injured person his own in kind, we are said to make *restitution*; if we give him an equivalent, we make *satisfaction*.

In all cases where restitution is possible, satisfaction cannot pass for full reparation, except it meet the consent of the party aggrieved; for satisfaction is only a substitute for restitution, where, in the nature of things, the latter is impossible.

Damages, for which no restitution or satisfaction can be made, are said to be *irreparable*; those for which either the one or the other can be made, are *reparable*.

Sch. 1.—To kill a parent is an irreparable damage to children; so the taking away the life of a child is an irreparable loss to parents. To betray the virtue and innocence of persons is a high crime, and the damages irreparable!

Sch.

Sch. 2.—In the strictest signification of the term, and in consequence of the nature of things considered in themselves, nothing short of restitution can be a reparation. Human laws may be satisfied by fines and considerations of interest, but certainly not the laws of God: it cannot be right that the wealthy should sport with the rights of others, because they possess advantages which others have not.

It is then a perfect duty, that we make restitution for injuries and damages if possible; if otherwise, we must make satisfaction; for we are bound to cause the evil arisen from injuries to cease.

The greater the damages are, the greater are the injuries from which they result; for the degrees of the material morality or immorality result from the consequences of moral actions.

Sch.—A thief who steals a hundred pounds does a greater injury than one who steals a hundred cents, &c.

But there are also various degrees of heinousness in injuries, where reference is had to the will and intention of the agent.

Sch.—One may injure inadvertently, culpably, or maliciously.

Damages, therefore, with respect to the intention of the agent, are distinguished into *casual*, *indirect*, and *direct*.

Casual damages are consequences not proceeding from a moral cause; as, from lunatics, infant children, brutes, and inanimate things.

Indirect damages proceed from injuries which are done culpably, by inattention, improvidency, precipitancy, or carelessness: thus, damages done by lunatics, madmen, children, brutes, and inanimate things, may become indirect with respect to him who had the care of either the one or the other of them, and who knew
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their mischievous disposition or dangerous condition, and did not all in his power to prevent the evil consequences.

Direct damages are done deliberately, intentionally and maliciously, and are therefore peculiarly heinous, according to the various degrees of malice.

As, therefore, casual damages excuse from reparation, and as indirect injuries, on the contrary, bind thereto, it is plain, that in the case of direct injuries and damages, besides reparation and security, the laws may order punishments according to the degrees of malignity in the conduct and intention of the injurer.

We have a perfect right to compel reparation, for we have such a right to avert and repel injuries: but injuries continue until reparation is made; the same right, therefore, which justifies us in repelling an injury, warrants all necessary means for forcing the injurer to make reparation.

We are said to *remit* our right, if we declare that we will not exercise it.

Remittance of injury among private persons is *forgiveness*; forgiveness proceeding from authority, with respect to private persons, is *pardon*. Remission of right to demand and compel damages declared by government, is known by the term *amnesty*.

As our rights are our own, we cannot injure a third person by remitting or by lawfully exercising them.

If a third person suffer damages in the lawful exercise of our right, the injury and damage must be charged to him who has provoked the exercise of that right, that is to say, to the injurer.

Sch. 1.—By causing the imprisonment of a debtor, or compelling payment, an innocent wife may lose her patrimony, innocent children their support, &c.

Sch. 2.—It is to be observed, that he is not always the injurer who first makes use of violence; but he undoubtedly is, who is the cause and has unjustly provoked the exercise thereof.

That reparation is *proportionate*, in which no more is demanded and exacted than is sufficient to cause the evil consequences of an injury to cease.

By exacting less, we show favour and generosity.

By using more violence than is necessary for reparation, we disturb another in the use and possession of his own without a just cause; the consequence is, that in such cases we commit injury and damage as far as our exaction exceeds the damages sustained.

Sch.—In all acts of violence, however, allowances are to be made, in favour of the prosecutor, for accidental waste and warmth of resentment; because both the natural and unavoidable consequences of injuries must be charged to the author of them, not to him who is under the necessity of exercising a disagreeable right.

Damages may be done by a number of persons collected together: in such cases, how shall reparation be made? The principles of nature dictate, that each person is to pay his quota of damage, if he is able and it can be ascertained. Where the quota of damage done by each person cannot be ascertained, the whole company, at least those who are able, are to make reparation for the whole: if all are not known or unable, those who are known and able must stand for the rest: for, in these cases, those who associated in mischief had the choice of their company, at least all who had a hand in it ought to have informed themselves both with respect to persons and circumstances.

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Sch.—To take one for all, in cases where all or a number of them are both known and able to make full reparation for injury, is a way of procedure not altogether consistent with the principles of natural equity.

CHAPTER VI.

Of the rights of defence and war.

BESIDES *actual* injuries and damages treated of in the preceding chapter, there may be such as are impending; for in many cases it would be both imprudent and unsafe to delay our right of repelling injuries until they should have actually taken place. We have a right to enjoy our own in security: a state of fear and apprehension of danger is so far from being happy, that it frequently renders us uneasy and miserable: we may therefore be justly said to be injured, if another shews an inclination to disturb us in the use and possession of our own. Such an inclination shewn, we call an *impending injury*, and the evils arising from it are *impending damages*.

The greater the damages of an impending injury, the greater is the injury.

Sch.—There is a vast difference between the cases, where one meets us in a threatening posture with a clenched fist, or with sword or pistol in hand.

He who actually disturbs us in the use of our own, or shews an inclination to do so, is called an *aggressor*; the act itself is stiled an *aggression*; and he against whom the injury is levelled or intended, is the party *aggrieved* or *aggrieved*.

If we bring evils upon an aggressor with an intent to stop the further progress of an actual, or to avert an intended injury, we are said to *defend* ourselves.

Sch.—Here we understand *violent* defence, where recourse is had to force and compulsory means; not that where we make use of arguments with an intention to ward off the imputation of a fact laid to our charge.

Defence cannot be just where there is not a just cause; for by doing violence to another without a just cause, we unjustly disturb him in the use and possession of his own, and commit an injury, because we act contrary to the dictates of natural law.

Where there is neither actual nor impending injury, there cannot be a just cause for defence.

We are said to *prevent an aggression*, when we use officious means, lawful in themselves, but not violent in their nature and consequences, for the purpose of inducing another not to entertain a desire or shew an inclination to injure us or to become an aggressor.

Well founded arguments, proving the justice of our conduct and intentions towards another, or setting in a proper light the injustice of the measures pursued by him, together with their fatal tendency to disturb our peace and security, may have great weight with those who, open to conviction, are not intoxicated by passion, or carried away with haughtiness and selfish views of ambition: but where justice and truth are disregarded, the best mean for preventing aggressions is doubtless to put ourselves in a proper state of defence, and shew both vigilance and vigour in asserting and maintaining our just rights.

It is more consistent with the principles of humanity, more safe, and consequently more politic, that we endeavour

endeavour to prevent an aggression, than pursue a contrary conduct, by which we might be precipitated into violent measures.

The party aggrieved has a just right of defence; for he either sustains an aggression or is under the fear of one, and consequently in a state where he may lawfully make use of forcible means either to stop the progress of an actual or to avert an impending injury.

We may not resort to the right of defence if no aggression has taken place; that is, where there is no actual or impending injury.

As certainty is very difficult to be attained in matters of fact, particularly in cases where the motives and intentions of the agent are to be proved, it follows, that the establishment of an aggression with respect to an impending injury, must necessarily give occasion to doubts and controversies; for it is possible, that an impending injury may be certain or probable, or may only be pretended.

With respect to aggression, we have therefore to attend to certain particulars, which, either in their nature or by the custom and consent of mankind, carry with them the criteria or the prognostics of the intentions of another person. If such particulars take place, there is a possibility of coming to as much certainty as the nature of the thing admits of, and we may in that respect positively know whether an injury is intended or not.

An open avowal of an inclination or design to injure or disturb us, leaves no doubt but that aggression has already taken place; and a disavowal does not in every case amount to a proof that no injury is intended.

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There may be circumstances particularly notable with respect to matters of fact, from which probable conclusions can be drawn of the intention of the agent. We may therefore form an idea of a *probable right of defence*, which takes place when there is a concurrence of notable circumstances, from which collectively we see sufficient cause to apprehend an aggression.

Sch.—Suppose rival nations, of which the one is discovered to be busy in exploring the coasts and harbours of the other, being at the same time deeply engaged in refitting its navy, recruiting its army, building or repairing fortifications, and making alliances; would not the other have cause to apprehend an aggression, and be justifiable in taking measures for defence?

It ought, however, to be well observed, that the greatest probability may be false; many aggressions, therefore, are only pretended, and defence is often nothing but clandestine injury and aggression, under the mask of a necessary and lawful exercise of a just right.

Sch.—Jealousies, ambitious schemes, subterfuges, so common in national governments, may blind the eyes of individuals or other nations, but cannot take away the injustice of their bloody measures, nor their responsibility to God.

He who justly defends himself, exercises his own right; he may cause hurt to a third person, but cannot be charged with damages, nor held to make reparation, for this plain cause, that in exercising his own right he does not commit an injury.

If, therefore, a third person suffer hurt, it must be charged as a damage to the aggressor; for he is the moral cause of all the natural and unavoidable consequences flowing from the just exercise of the right of defence.

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The aggressor, therefore, is bound to make good all damages sustained by a third person from the just exercise of the right of defence, for which he has given cause and provocation.

Sch.—We must, however, well consider, that only such losses and inconveniencies are chargeable to the aggressor, as cannot be avoided in justly exercising the right of defence. Making allowances, as we have already mentioned, for unavoidable waste, we must charge the defender with all that is done wantonly or unnecessarily: in these cases he may have a just right of defence, but he is far from exercising it justly.

He who hinders us in the just exercise of the right of defence, disturbs us in the use and possession of our own, commits an injury, and is bound to make reparation.

The right of defence involves the right of preventing aggression. We prevent aggression by the same conduct and means by which injuries are prevented.

Sch.—Remember, that putting ourselves into a proper state of defence, is found to be one of the most powerful arguments for preventing insults and aggression.

Defence may be just with respect to its cause, and still unjust with regard to the mode in which it is conducted. On the other hand, defence may be conducted in a proper mode, &c. and still be unjust with respect to its cause.

Sch.—Defence which has not a just cause, can never be rendered just, though it be conducted in the best possible manner; for it is in itself an injury and an unlawful aggression.

With respect to the just mode of conducting defence, we distinguish both means and the use of them into lawful and unlawful.

Defence

Defence is justly conducted, if the means are lawful and lawfully used; for nothing can be just that is repugnant to the dictates of natural law.

Those means are lawful which are not unnatural in themselves, nor disproportionate to the purposes of a just defence.

We call those means *unnatural* which are inconsistent with the ends of just defence.

The ends of just defence being security and peace in the use and possession of our own, it follows, that such means as render, among other things, life in the highest degree insecure, are contradictory to the very nature of defence, and are justly called unnatural.

Sch.—Among the unnatural means of defence is assassination, poisoning and perjury; for, independent of the horrid internal malignity of such actions, there would be an end to all security and trust, as well as to a possibility of making use of the right of defence, if such practices should become general. As this most certainly will be the case, if any one who has the right of defence, or pretends to have it, might use such means, there would be no possibility of preventing others from following the fatal example. Indeed, no man's life would be safe.

Means unlawful, because they are *disproportionate*, are such as are calculated in themselves to bring more evils upon the aggressor than are necessary for averting the aggression.

The proportion of means, or the contrary thereof, must be estimated by the nature and circumstances of the aggression; for instance, a sword is a proper mean of defence, if the aggressor invades us with a weapon of that kind, but is far from being so against one who attacks us with his fist.

Sch.—It would be murder, not defence, if a person, though
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unjustly beaten, should rip up the entrails of the aggressor, as there is an evident disproportion between the aggression and defence; the former causes only hurt and pain, the latter death.

Besides proportionate and lawful means, defence must not be carried to excess; which is the case when we bring more evils upon an injurer than are necessary for reparation and security; for as these are the ends for which defence may be justly exercised, it follows, that an extended prosecution of that right is destitute of a just cause, and therefore ceases to be a right. All acts of violence thus extended beyond their just limits, become lawless aggressions.

It is therefore an important duty, that we undertake no defence without a just cause.

It is likewise a duty, in exercising the right of just defence, that we do not *exceed its limits*, by making use of unlawful means, or carrying the use of such as are lawful to excess.

Sch. 1.—The principles of justice, humanity and prudence require, in making use of the right of defence, that we do not divest ourselves of internal friendship.

Sch. 2.—In forming an estimate of our own conduct, we cannot be too strict, whilst that of a neighbour, even that of an enemy, has a claim to our charity. In all cases of defence proceeding from a just cause, we ought to make allowances, and consider, not so much what the real danger of the defender has been, as what he himself conceived it to be. There may be instances where passion has had the better of judgment, and consequently defence is carried too far; but is it not in some measure owing to the aggressor, that the defender has been put into such a state?

A defender transgressing the limits of just defence, becomes an aggressor as far as he brings unnecessary evils upon his adversary, or more than are sufficient for his

his own reparation and security. In this case, therefore, he is bound to make amends for such an excess of unlawful violence.

A person may remit his right of defence, for it is his own.

On that very account he cannot be compelled to defend himself.

Sch. 1.—It is to be observed, that we treat here of those rights and duties which individuals might exercise, and would be held to observe amongst one another in the absolute social state, where they are considered as fellow men, and where each is in the possession of all his natural rights, and entitled to their full exercise.

Sch. 2.—When, on the contrary, men are considered in a state of civil society, where natural rights, and amongst them the rights of defence and war, and more especially the exercise of them, is in a greater or less degree lodged with the government of that society; it is evident, that these natural rights must undergo many modifications.

Sch. 3.—Citizens may remit or exercise all those natural rights which are not delegated, and as far as the exercise of them is not lodged in the hands of government.

Sch. 4.—Government, on the other hand, has the disposal of the exercise of the delegated rights of citizens, as far as that exercise is delegated: it may remit and pardon, where civil duty points out to citizens the way of intercession.

Sch. 5.—As individuals must exercise the right of remission, or of prosecution of defence in conformity to duty, so government may not exercise arbitrary power in that respect, since it is a duty incumbent upon it to use all delegated rights for the welfare and security of civil society in general.

A remission of the right of defence becomes our duty when it produces greater and more universal felicity than would result from a strict prosecution thereof.

But it cannot be lawful, at least in the forum of conscience, if such remission has a bad tendency, or produces,

duces bad effects, or if it proceeds from sinister motives, or endangers the security of others.

Sch. 1.—As the general consequences of the exercise of the rights of defence and war among individuals would render a state of society either impossible, or at least extremely unhappy, we see the great cause why those rights are to a certain extent very wisely lodged in the hands of government, and the exercise of them intrusted to its care.

Sch. 2.—It is for the same reason, that a remission of the right of defence, in cases where the good of society is at stake, cannot remain at the disposal of individuals. If each man has a right to withdraw himself from the defence of his country when he pleases, society cannot subsist.

Sch. 3.—Whilst we conclude, from these and other weighty principles, that no member of civil society can have a solid objection to an exercise of the right of repelling force by force, particularly when that exercise is necessary for the assistance of our fellow citizens and the preservation of the public good of our country; we think it commendable in government to mitigate its public right with respect to persons who pretend scruples of conscience, so far as is consistent with public good.

Sch. 4.—Should lenity clash with public good, there is no doubt but that the latter should supersede all other considerations. Upon the whole, if persons have a claim upon the humanity of government, it is very obvious that the latter can in no wise condescend to any thing less than a reasonable equivalent.

Violent defence is so near akin to war, that nothing more is required for constituting the latter, than that the former become reciprocal.

War may be defined to be that state, where men reciprocally resort to the right of defence, committing violence against one another, determined to repel force by force.

The opposite of war is *peace*. Peace, therefore, may be defined to be that desirable state where no reciprocal

reciprocal injury has taken place; where men do not look upon one another as aggressors, and consequently abstain from acts of reciprocal violence.

Sch. 1.—According to these several definitions of peace, it is manifest, that those have the best prospect of enjoying its blessings, who carefully refrain from acts of injury, and are conscientiously scrupulous of giving every one his due; for such conduct leaves not even a pretence for committing an act of violence.

Sch. 2.—As perfection in human affairs cannot be expected, and as the best disposed neighbour may commit an act injurious to another, still, even in this case, a person setting a proper value upon peace will rather submit to the just right of the injured, than resist, and thus render violence reciprocal.

Sch. 3.—Considering the imperfections of human nature, and the various temptations surrounding men in their intercourse with one another, it is not to be wondered at that injuries take place; but, as men are prone to aggression, is it not a matter of surprise that they are unwilling to make concessions, or even reparation? Notwithstanding the frailties of nature and the great variety of interests and sentiments in society, peace and harmony might still prevail, and human intercourse more frequently present us with the pleasant sight of beholding brethren in unity, if a solicitude to prevent or immediately to repair injuries should become general among the children of men: all cause for war would thus be done away.

Sch. 4.—War amongst brethren is a thing in itself so horrid, and its consequences so dreadful, that even a remission of our right, when consistent with higher duties, is not too great a sacrifice, if peace may thereby be cultivated and preserved.

Sch. 5.—This being the case, how careful should we be, when higher obligations make the exercise of our right of defence necessary, to use it with all possible prudence and moderation, and to guard against the bias of passion, lest we become guilty of carrying defence beyond its just limits, and thereby give cause for resistance, and provoke war, which both duty and interest require us to avoid as much and as long as possible.

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Sch. 6.—We need only substitute, in the definitions of peace and of war, the term nations for that of men, in order to have an adequate idea of public peace, the greatest national blessing on earth, and of public war, the greatest calamity that can befall a nation. Public peace may be defined to be that state among nations, where there is neither actual aggression nor real danger of an intended one: public war, on the contrary, takes place when nations distress and reciprocally commit violence against one another.

Sch. 7.—Although we may not here enlarge on the public rights of peace and of war amongst states and nations, a subject which is reserved for another part of this treatise, yet it ought to be observed, that all that has been or may be said with respect to the just exercise of perfect rights, of reparation, defence and war, between individuals, is the very basis and foundation of what is right or wrong in the conduct of societies, states and nations, in their intercourse with one another. We allow that there is a great and very material difference between public and private concerns, with respect to consequences, effects and extent; but there cannot be any formal or internal difference with regard either to justifying the cause for beginning, or the just mode of conducting acts of violence and compulsion; because nations are men, and as such are in the same natural relation in which individuals are placed, to wit, fellow-citizens of the earth, subject to the same government of the Most High, and equally bound to obey his majestic commands. The same rights may therefore be exercised by nations in a state of aggression and hostility, which the principles of nature point out as the proper line of conduct for individuals; and the same duties are to be observed by nations, which individuals have to perform in consistency with the laws of nature, justice and equity.

In order, therefore, to learn with precision what conduct public bodies of men should observe towards one another, in case of injury, aggression and insecurity, we must carefully examine the rights of individuals in such states.

Sch. 8.—It is true, in the present state of things men may very seldom be considered in their absolute social state, as they are generally members of society, and as such have transferred,

ferred, in some degree or other, their rights of reparation, defence and war, particularly the exercise of them, to the direction of government. But if these rights are to be exercised, they must be known; for without this, both citizens are ignorant of what they have to expect from government, and government is unable justly to conduct the exercise of rights which are unknown and undetermined.

Sch. 9.—As citizens have now to exercise their natural rights of reparation, defence and war, by the laws and directions of government, it is evident, that suits and actions are substituted for the natural mode of exercising those rights. Hence the necessity of good, salutary and energetic laws, and of a faithful and impartial administration of them, in order to afford citizens that protection and security to which they have a natural right.

Sch. 10.—Laws which have that tendency and effect, are worthy of the highest esteem, and a just administration of them is a public blessing. An obsequious compliance with their precepts and prohibitions, as it constitutes one of the most excellent traits in the character of a good citizen, so it is the best possible mode for the exercise of those perfect rights with which citizens are invested.

There is such a thing as the right of making war; for we have a right to repel an unjust aggression, in order to live in peace and security. This right cannot be defeated by the lawless resistance of an aggressor: if this were the case, there would be no moral possibility of directing things which are our own for the attainment of our felicity: but since it has been proved, that this would be contrary to the first principle of natural laws, it follows, that we have not only a right to make a just war, but that it is even our duty in every case where avoiding it would interrupt our felicity or be contradictory to our happiness.

Between the right of peace and that of war there is this difference, that the former is absolutely natural, the

the other, on the contrary, hypothetically so. It is evident from our own nature and the natural order of things, that we should enjoy our own undisturbed by any other mortal. But the right of war presupposes a fact, to wit, interference and disturbance by another in those things which are at our free disposal for the end of our existence, our own happiness and that of others, and for the glory of our Maker.

The state of nature, considered in itself, is therefore not a state of war, but of peace.

Sch.—Rights of peace and war are taken in different significations: sometimes, as is the case here, they are taken for qualities in persons; when, on the other hand, they frequently denote those rules for conducting the affairs of peace or war which result from the precepts and prohibitions of the law of nature, or rest upon usages which have obtained the force of laws.

From the nature of the rights of peace and war it is evident, that no right of war can take place without previous disturbance in what is our own; for there cannot be a right to commit violence where there is no injury.

That war is *just* which has a just cause and is justly conducted: war, on the contrary, is unjust, when it is destitute of a just cause and conducted in an unjust manner, or protracted to an unlawful extent.

A just war, which really proceeds from a disturbance, may become unjust with respect to the mode, manner and extent of its being conducted.

An unjust war may be justly conducted, but being founded on an unjust cause, can never become just.

Sch. 1.—Wars without a just cause are, in the sight of natural laws, nothing but methodical robberies.

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Sch. 2.—Suasory causes, dictated by ambition, self-interest, a desire of fame, for the purposes of conquest, &c. are far from justifiable.

Sch. 3.—The pretence of placing nations in a better state with respect to religion or civil liberty, is so far from being a just cause for war, that it is barefaced tyranny under the garb of scandalous hypocrisy.

Since aggression only can be a just cause for war, it follows, that persons or nations, before they undertake war, ought to be convinced of this point, lest they sport with the rights of man, transgress the natural laws, and become the disturbers of society,—hateful to their fellow creatures, and abominable in the sight of God.

Those who are at war being called hostile enemies, it follows, that this term is applicable to the aggressed as well as the aggressor, as soon as acts of hostility are committed.

Sch. 1.—In the sequel we understand by the term enemy such an one as is hostile.

Sch. 2.—Hence it follows, that from another's not committing acts of hostility against us, we cannot safely conclude that he is our friend or well-wisher.

Sch. 3.—With respect to local situation, there is no such thing as *natural enemies*: if nations or men are so placed that they may easily interfere with each other, a good understanding ought to be earnestly and assiduously cultivated between them.

The distinction of war into defensive and offensive, may be referred to the cause as well as to the operations of a war: with respect to the former, he who is the aggressor, that is to say, who is the moral cause of the injury, whether he begins or provokes hostility, carries on an offensive war: the party aggrieved, on the contrary, is on the defensive, whether acts of hostility begin with him or with the adversary. But, when refe-

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rence is had to operations, he who invades is said to carry on an offensive war, and the invaded is said to be on the defensive.

Sch. 1.—In the first signification of the terms, offensive war is unjust, whether the operations be offensive or defensive.

Sch. 2.—According to the second acceptation of the terms, an offensive war may be just and a defensive unjust, and vice versa.

Sch. 3.—With respect to the general conduct of a war, the operations are liable to change: he who invades to-day may be invaded to-morrow; an offensive war may therefore become defensive, and vice versa.

It is our duty to cultivate peace as long as possible; for it is our duty to injure no person. By avoiding the commission of injury and acts of aggression, we avoid giving cause for war: by avoiding causes we avoid their effects. If, therefore, we are careful to do no injury, and to give others their due, we do all that is requisite for avoiding war. But as by this care and solicitude we are said to cultivate peace, it follows, not only that this is a great duty incumbent upon all, but also, that cultivating peace as long as possible is the surest means to avoid being involved in ruinous war.

Suppose, which may be the case, that such a peaceable conduct cannot secure us against ambition, malevolence, and acts of injustice; what is then to be done? The duties of humanity dictate forbearance as long as it is morally possible; but when submission to acts of inhumanity and injustice clashes with higher duties, which we owe to God, to ourselves, to our household and to others; if it becomes injurious to the peace and security of society; if the cause of justice should thereby suffer, whilst the cause of injustice is supported; then indeed it is not optional with us, whether we will defend

defend our rights, or basely surrender them. It is our duty to resist.

He who wishes us ill, that is, one who is an enemy in the general sense of the term, if not prevented, will naturally become hostile. If we cannot, therefore, soften him by our best endeavours to cultivate peace, our own safety makes it a duty for us to endeavour, by all lawful means, to prevent him from commencing acts of hostility, by laying such obstacles in his way as will deter him from such a resolution.

As fear is found to have a powerful influence on the human mind, even affecting those who are deaf to the voice of reason and humanity, and too obdurate to be sensibly affected by the noble principle of love, it follows, that we must think of means calculated to strike him with fear, or keep him under apprehension of the dangerous consequences which may result from his attempting acts of violence.

There is no doubt but his apprehensions will be such, if he sees that our power is equal or superior to his own: we ought therefore to put ourselves into a proper state of defence.

If it becomes a duty, under certain circumstances, to endeavour to gain over to our interest many and powerful friends, it will be particularly requisite, that we proceed with the greatest possible circumspection, moderation and delicacy, lest we give provocation, and by such conduct excite our enemy to acts of hostility, which might be warranted by his right of defence; for by going too great lengths, we justify suspicion concerning our disposition, and thus give a just cause for defence and war.

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Sch. 1.—We need only make the enemy's case our own, in order to be convinced of the justice and propriety of the foregoing observations.

Sch. 2.—As these things have a particular reference to national affairs, they may serve to throw light upon many political maxims observed among the nations of the earth.

Since injury is the sole cause of war, it follows, that no war may be prosecuted to an improper length, though it is even founded on just principles; for if actual injury ceases, if the impending aggression is averted, if there is no invasion to be dreaded, there is not one justifying cause for the commission of an act of violence or hostility: but where there is no cause for acts of hostility and violence, there a state of peace and security exists: consequently no war can be carried on justly, if the aggrieved can obtain such terms of peace as will secure reparation and safety.

Sch. 1.—The right of war, where the aggrieved has to propose the terms of peace, is therefore naturally limited. But suppose the aggressor is victorious, so that the injured cannot obtain terms calculated to make reparation, but must risk his safety and security to the highest degree, if he does not submit to the terms proposed by the victor: in this case, is the right of war on the defender's side also limited? We answer in the affirmative; for what is physically impossible leaves us under an unavoidable alternative, and imposes the duty to chuse of two evils the least.

Sch. 2.—In case the party who has justice on his side consents to the terms of pacification proposed, he is held strictly to observe them as long as the other party faithfully keeps within the bounds of that pacification.

No insidious ambiguities, but candour and honesty should dictate the terms of peace, and a strict adherence to justice insure the observance thereof. Where reparation and restitution cannot take place, there is room for amnesty; and an act of amnesty is to be held sacred, as we ourselves have thereby gained security and peace.

CHAPTER VII.

Of the duties of speech.

TRUTH, the principal object of the duties of speech, is in its nature harmony and consistency, which are co-eternal with the internal possibility of the essences of things: its effects are order, beauty, connection, and mutual dependence, in all that exists: its tendency is moral excellency, and its object the compass of all that can render life happy, support us under the vicissitudes of time and chance, and bear up the soul with the sure hope of immortality.

It is distinguished into metaphysical, logical, and moral; or, in other terms, into the truth of things, of words, and of thoughts.

Sch.—Metaphysical truth may also be called *essential*; that which is here styled logical, is more generally known by the appellation of *real*.

All *evidence* of truth, of whatever kind it may be, ultimately depends upon these two infallible criteria, or self-evident principles:

1. *It is impossible that a thing be and be not at the same time and under the same circumstances.*
2. *Whatever is either possible, existent, or conceivable in the mind, must have a sufficient cause for being so and not otherwise.*

Sch.—It is true, the second of these principles bears not immediately that incontrovertible evidence which the former cannot fail to produce; but it may be deemed self-evident, because it is, as it were, the immediate consequence of that

that first principle of all human knowledge. Suppose but for a moment a thing of any description whatever to be without a sufficient cause; would it not follow, that it might be and not be at the same time? The person, therefore, who, from the circumstance that we cannot plainly perceive the causes of some things, should conclude that they are destitute of a sufficient cause or causes, would fall into the same absurdity with him who asserts that a thing is and is not what it really is, that *black* is *white*, or that *day* is *night*, &c.

Hence we lay down these propositions as infallible maxims, and as sure criteria for distinguishing truth from falsehood:—That which is contrary to these and other self-evident principles of human knowledge, is false, impossible and absurd; that, on the contrary, which evidently flows from them, is possible and true.

Things are said to be *essentially* or *metaphysically* true, if their predicates are consistent with their essences: thus, it is essentially true that God exists, that he has created the world, that he is almighty, omnipresent, omniscient, infinite in power, wisdom, justice, goodness, &c. for these predicates are consistent with the essence of an infinite being. But it is metaphysically false, that the world exists of itself, that sin is a thing indifferent, that the ungodly can be happy; for these predicates are contradictory to the essence of the world, to the nature of sin and ungodliness, and to the perfections of the Deity.

Sch. 1.—Metaphysical truth is unchangeable, and co-eternal with the essences of things. The essence of the infinite being includes necessary existence; but the essences of all finite beings have been metaphysically true before they have existed; nay, such essences are true as never shall exist. But let not this be an objection to the necessity of a careful investigation of metaphysical truth: we have gained a great deal if we have an adequate idea thereof: it is a shield against innumerable errors, deceptions and delusions.

delusions. There are things which are true, though we are unable to attain a distinct knowledge of them: soul and body co-operate with one another; the loadstone attracts iron; there is a state of future bliss and glory, &c. though the nature of that co-operation, attraction, happiness, &c. cannot be fully comprehended. What our faculties cannot reach, other beings may see clearly; what is now hidden from our apprehension, we may hereafter comprehend with full perspicuity.

If metaphysical truth had been properly attended to, we should not have a continual war against scepticism and unbelief: a thousand tales and stories would never have found credit: the stories of spirits appearing, of statues of stone, of wood, &c. performing human or supernatural actions, &c. would never have met with patronage among the children of men.

We have only to bring things to the test of the afore-mentioned principles, in order to see whether they are beyond the reach of reason, or contradictory to it. Whilst things of the former kind are objects of faith, truth commands us to reject the latter as incredible, impossible and absurd, though the highest authority of men should join in their patronage and support. Where we cannot clearly discover the nature of the relation of things to the above principles, there is cause why we should suspend our judgment rather than imprudently precipitate ourselves into errors and mistakes.

Sch. 2.—All works of fancy, epic poetry, the drama, romances, fables, &c. are to rest upon metaphysical truth, in order to preserve that probability and propriety which are essentially necessary for pleasing the fancy and entertaining the imagination, in which the principal merit of these kinds of performances consists. Thus Homer, suffering his heroes to come into difficulties too arduous and intricate to be removed by human wisdom and strength, introduces his fabulous deities, in order to reconcile the mind of the reader to his fictitious narrations.

Truth of words, or real truth, has reference to things which exist, and is the consistency of our ideas, or words, with the things themselves, their qualities, properties, relations,

relations, and the particular modes of their existence; for instance, if we judge or call that gold which is really so; if we represent that as good and excellent which in its nature and tendency has a beneficial influence on human happiness. The contrary of real or logical truth is *logical falsehood*; for instance, if brass be taken for gold, things of pernicious tendency for good and excellent, &c.

Nothing is of higher importance to mankind, nor any object more worthy the diligent researches of the human mind, than logical truth. We scan heaven, analyse the component parts of bodies, of matter, air, &c. in order to investigate things as they are, and to acquaint ourselves with the salutary or pernicious effects of their properties. Without knowing the real truth of things, uncertainty would hold its dismal reign, mutual trust and confidence would find no place, justice could not be administered; the voice of instruction, of animation, of consolation, could not be heard; morality would remain slothful indifference, hope would be impossible, and there would be no prospect of felicity; nay, there would be no security for our life and health, as wholesome food could not be discerned from that which is pernicious and poisonous. In short, without the knowledge of the real nature and properties of things, human intercourse would be, like the earth without the enlightening beams of the sun and the reflected light of the heavenly luminaries, chaos and confusion!

Sch.—He who discovers a new truth, beneficial to society, merits well of mankind, and deserves to be held in high estimation, more so, perhaps, than a discoverer of new countries.

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The real truth, like hidden treasure, is often difficult to be come at; but, notwithstanding this, it is attainable in many things which are necessary for the comforts of this life, and for a well established hope of a better.

We can form distinct ideas of various objects, which involve no contradiction: by this way we come at the knowledge of the very essences of things, though ever so remote from our apprehension: thus we have distinct ideas of God, of his existence, attributes and works—of the contingency of the world—of our own nature, faculties, destination, &c.

Sch.—We can clearly delineate in the mind a complicated machine before it exists: we have distinct ideas of the mathematical figures and their essential properties, though they never exist by themselves in nature, being only the essential properties inherent in things which really exist.

Our ideas are still more palpable and striking in such things as have existence: we may become as certain of their properties and uses as we are of our own existence, wants and inclinations.

It is not only in idea, but also in the connection of various representations, that is, in judgments, in propositions and reasoning, that logical truth can be discovered; for all reasoning consists of judgments, and must be true if these are so, and if there is consistency in the mode of drawing inferences or conclusions.

Those propositions are true the predicates of which are consistent with their subjects; as, for instance, God is a spirit; men are liable to mistakes.

The truth of propositions rests sometimes upon an *internal criterion*, but often upon an *external* only; and

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there are many propositions which are supported by both.

Those propositions have the internal criterion of truth where the consistency of the predicates with their subjects can be distinctly seen; that is, where we plainly discover that the opposite of them implies impossibility or absurdity; as, God is almighty; men are liable to error.

In other propositions we must rest contented with the evidence of sense and the well established experience of others; that is, we can only have the *external criterion* of truth: according to this, that proposition is true the predicate of which is consistent with the nature and properties of the subject, as discovered by well established experiments.

Sch. 1.—For instance: the loadstone attracts iron, the needle points to the north pole, the human body and soul have a reciprocal influence upon each other, &c. We cannot so distinctly perceive the consistency of predicates with their respective subjects as to be able to shew, from the nature of either the one or the other, that the opposite of them is impossible.

Sch. 2.—But notwithstanding this, we have a very striking and sufficient evidence of the truth of such-like propositions; because it is evident, that the opposite of them would be contradictory to sense and experience, which are far more obvious and familiar to our apprehension than the nature of things.

Sch. 3.—The truth of propositions which rest upon internal evidence, may be brighter than that which depends upon the external:—the latter, however, is more striking and forcible, and more easily attained.

There are many propositions the truth of which rests both upon the internal and external criterion; that is, reason, sense and experience conspire in convincing the mind of the consistency of their predicates with the subject.

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Sch.—This is the highest possible degree of evidence in nature: thus it is true, that men are liable to mistakes. The consistency of the terms of this proposition flows from the nature of things. Our eyes have often witnessed the errors and mistakes of all sorts of characters; and the report of history perfectly coincides with our own experiences. This degree of evidence attended the wonders of Christ, with respect to those who saw them and had the discretion to compare their experiences with the scriptures: there facts took place which most evidently bespoke almighty power in the agent; the eyes of friends and enemies beheld the agency; and the nature both of the agent and of those acts had been predicted and attested by many witnesses, who derived their testimony from divine inspiration.

Truth, with respect to the ways by which it becomes evident, is distinguished into experimental, rational and historical.

We are said to *experience*, or perceive things, when we obtain representations of them by means of our senses: thus we have *experimental truth* in things that we see, hear, taste, smell or feel.

Rational truth is that evidence which is derived by a proper mode of argumentation from first principles.

Historical truth depends on the testimony, that is, on the experiences of others: those who declare their experiences to others are called *witnesses*, and the declaration itself has obtained the name of *testimony*.

We distinguish *ocular* from *bearsay* witnesses: the former declare their own experiences, the latter those of others.

The receiving another's testimony as true is called *assent*: assent to a well established testimony is *faith*.

Whether a testimony is well established, and consequently deserves full credit and faith, is an enquiry of great

great importance, as it is often attended with many intricacies and difficulties. Here two extremes are to be avoided: we may contract the guilt of *incredulity*, or incur the imputation of *credulity*, by denying our assent to testimonies sufficiently well established, or giving it to any report, however badly supported.

All the merit of testimonies depends upon these particulars: 1. that the things testified be not metaphysically false: 2. that those who testify have the character of good witnesses.

A *good witness* is one who is both capable and willing to testify the truth as it is.

Sch.—All that is matter of fact rests upon experimental or historical truth; but all that can be inferred from indubitable principles is an object of rational truth.

From what has been explained it follows, that there are truths which are only objects of reason; as, the existence of a God, the soul, &c. others again which are objects of reason and sense; as, the mortality of the body: and others which are experimental or historical, or perhaps both; as, that there was such a thing as the city of Jerusalem, that the cities of Rome, Paris, New-York, &c. exist.

Hence it follows, that there are different criteria by which each class of truths must be examined; for to deny the existence of spirits, because we cannot see them, would be as imprudent as to deny our eye-sight because we cannot demonstrate it.

The *criterion of rational truth* is this proposition: that is indubitably true which is justly inferred from indubitable principles, or when the opposite thereof is metaphysically false, absurd, or impossible.

The *criterion of experimental truth* is this maxim: if
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the mind is attentive and vigilant, the sensory organ sound, the mean and mode ordinary, that is, such as they ought to be for the purpose of making experiments of the kind, the object of sensation within a proper distance, and its appearances to our senses always the same; then things really are what they appear to be, or in other words, then our sensations are true.

The *criterion of historical truth* is, as has been said, this proposition: if a fact is not metaphysically false, and is supported by a well established testimony, it is then true, and deserves our faith.

Since a *well established testimony* requires capability and sincerity in the witness, it is necessary to fix upon such criteria as may render it certain that a witness is able and willing to testify the truth.

The criterion for the *capability* of a witness is, that he has been an *eye-witness*, that he himself has experienced the things of which he testifies, and that his experience has been attended by all or such of the criteria of experimental truth as the object of the testimony would admit of.

The criterion for the *sincerity* of a witness, that is, his readiness to speak the truth as he knows it, is, that he has not or cannot have from his testimony any expectation of honour, riches or preferment, either for himself or his friends. His *sincerity* is still more evident when the object of his testimony is opposed to his own prejudices and interests, when it involves him in difficulties, causing him reproach, contempt, persecution and even death.

As the criterion of the capability of witnesses is a test of logical truth, so that of their sincerity is a sufficient evidence

evidence for the moral truth of what they testify; and both taken together leave no rational doubt with respect to the real or historical truth of their testimony: for it is a maxim as infallible as a demonstration, that *he certainly speaks the truth who is both able and willing to speak it.*

Sch.—When we have the criterion of the sincerity of a witness, then we become certain that he speaks the moral truth.

Moral truth is the consistency of our words with our inward thoughts, sentiments and desires.

Speech, in the strict sense of the term, consists of words spoken or written; but, as words are the most common signs by which we express our thoughts, we may take speech for the exhibition of any signs by which others are to understand our thoughts. Not to exhibit signs by which our thoughts may be understood, is called *silence*.

Sch.—There are circumstances in which silence may serve as a general sign for interpreting our thoughts; nay, common conversation presents us with many instances where silence speaks louder than words. For instance; if a person, having occasioned an accidental damage, would declare the circumstances and confess the fact, we should feel ourselves more reconciled to the loss sustained, than if we must take the author upon a construction, which perhaps warrants the suspicion that he has done the mischief wilfully, with a bad intention, or from sinister motives, &c.

Signs by which our thoughts may be communicated and interpreted, are either *original* or *arbitrary*: the former, men are led by instinct to employ and to interpret; for instance, the various tones of the voice, the different changes of features and gestures, naturally calculated to express the internal affections of tenderness, sorrow, sympathy, joy, pleasure, grief, surprise, terror, hope, anger, resentment, contempt, &c.

Sch.

Sch.—The absence of such signs is an indication of an even, placid temper of mind.

Arbitrary signs are called *conventional*, because they rest either upon a tacit or explicit convention among the parties conversing with one another by means of them.

Conversation by way of *tacit convention* is, when we make use of common language, or such *mute signs* as are generally understood to denote affirmation, approbation, information, accusation, &c. or the contrary; as, looks, pointing with the finger or hand, nodding, shaking the head, &c.

Parties by *explicit convention* may converse by a particular use of words, mute signs, or hieroglyphic characters, agreed upon for the purpose of communicating their thoughts to one another in such a manner as to render it impracticable for other persons to understand the subject of their conversation.

In whichever of these ways we speak, it is clear that we give signs whereby others may apprehend our thoughts: speech is therefore an action in which others are more or less interested, and is under the cognizance of the same laws which form the rules for conducting our actions.

Hence it follows, that we must observe duties in speaking as well as in silence; and that the same laws which regulate our duties to God, to ourselves and to others, prescribe also the rules according to which those duties ought to be conducted.

We may therefore, for the direction of our conduct in speech, lay down as an infallible maxim this proposition: *direct speech or silence to the glory of God, to thine own happiness, and that of others*; and carefully avoid the contrary.

Sch.

Sch.—We treat here of speech under the idea of moral actions, for there is such a thing as speaking which is not moral, and therefore comes not under the cognizance of laws and of duty: for instance, that of madmen, infant children, expressions of persons in a paroxysm of sickness, &c.

From this principle it immediately follows, that as it is on one hand an indispensable duty for us to speak the truth and the whole truth, or in other words, to exhibit such signs as are fully consistent with our thoughts, where the glory of God can thereby be manifested, and our own happiness and that of others promoted; so it is on the other hand absolutely requisite, that the truth be kept secret in all those cases where the disclosing of our thoughts would be in any wise repugnant to these great and desirable ends.

As a proclivity of the mind to speak the truth, in all cases where the glory of God and the good of mankind require it, is called *veracity*; and as a steadfast resolution to keep it secret, when those ends render it necessary, is known by the name *taciturnity*; it follows, that it is a high duty for us most faithfully to exercise those virtues, in every instance and occurrence of life where the glory of God and the good of society render either the one or the other necessary.

Sch. 1.—Since veracity can be exercised only in those cases where the glory of God, the duties we owe to ourselves, and the good of society require that we should sincerely disclose our thoughts, it is evident, that those have no pretence to this amiable virtue who divulge every thing they know, though it be opposed to the duties of religion, disgraceful to their own character, incompatible with the principles of equity and humanity, contrary to decency, detrimental to the persons whom they address, and injurious to those whose actions are the subject of such imprudent and indiscreet conversation.

Sch. 2.—Suppose it possible, which can hardly ever be the case, that the busy host of tale-bearers confine themselves to
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what is true, without adding to or taking from their stock of knowledge, and without going so far as pretending to know the designs and intentions of the victims of their *loquacity*: suppose their tales strictly true and innocent in that respect; what good end is thereby obtained? you divulge what the glory of God, your own character and the good of mankind require to be kept to yourselves, or what perhaps you yourself should communicate directly to the agent, or impart only to some particular persons. Consider the consequences of indiscreet loquacity: you trifle away your time: by being busied with others, you forget yourself: you might have had opportunities to speak things more innocent, more edifying: you intrude upon your neighbour's patience and time: you degrade your character by betraying the officiousness of a tale-bearer: you become guilty of slander: you create mischief in families, distrust in society: you speak to spread abroad misery: you delight in the frailties and faults of others: you sport with charity, sympathy and humanity: you lay snares and temptations for your fellow creatures, who would have retained their innocence had they been suffered to think well of persons of an indifferent character, &c. You speak the truth, but can your conduct be innocent? can it even be indifferent? No: you become either an indirect or a malicious slanderer; the former, if you have not the intention to render your neighbour miserable; the latter, when your tongue is employed for the purpose of creating mischief. The end being unjust, the mean you make use of cannot be rendered innocent. If the truth is told for the purpose of warning and cautioning your neighbour, then it is consistent with the good of mankind as well as with the glory of God and the duty of veracity.

Sch. 3.—Suppose you deviate from the truth, you attribute to your neighbour intentions and designs which he had not, or you do not know all the particular circumstances of the action, or culpably or maliciously conceal them; you mingle untruth with truth: who is able to calculate the mischief which is caused by that officious loquacity so prevalent in human conversation?

Sch. 4.—There are therefore innumerable occurrences in life, where a man of candor, sincerity and veracity must keep

the truth secret, in order to be faithful to God and to himself, just and humane towards his fellow-creatures.

Sch. 5.—Not every instance of a reserved conduct in conversation is therefore commendable: there is a time to speak, and there are circumstances which require silence and reservedness: there are a variety of objects which may be proper subjects for conversation, whilst many others are highly improper and hurtful. Those, however, who carry reserve to excess, and thereby become unfociable, are not liable to half the mischiefs which loquacity produces.

Those who hold that moral truth is of a character peculiarly sacred and inviolable, so that it may not, under any circumstances whatever, undergo any modifications, have not sufficiently considered, that on the one hand they derogate from the sacred character of other moral actions, which are under the controul of the same laws according to which our conversation with respect to speech and silence must be regulated, and on the other assert what is impossible in the nature of things. Why should I not speak as I ought to act? or what greater degree of morality or immorality is speech capable of than any other kind of moral actions? Is there a greater end to be pursued in speech or silence than that which should be the ultimate scope of all our actions? Is there a greater end possible than the glory of God, our own felicity and that of others? Certainly not. The consequence then is, that, if we will have it in our power to do our duty at all, speech and silence, in cases of collision, must undergo modifications and exceptions as well as other actions, and that these modifications and exceptions must be made according to a just estimation of our obligations, laws and duties, and in such a manner as that the greater will always supersede the less.

Sch. 1.—From these considerations we may judge of the justice and propriety of those instances and rules which authors have

have laid down as justifiable exceptions to the exercise of the virtues of veracity and taciturnity under particular circumstances.

Sch. 2.—Before we proceed to quote some of those instances, it is necessary to observe, that, in our opinion, deviations from moral truth are not sufficiently distinguished: hence it is, that what one author calls a falsehood, another styles a lie; hence it likewise is, that we meet not, in any subject of morality, with more difficulties, intricacies and confusion, than in that of the duties of speech. In authors, as well as in common conversation, no other distinction is observed than truth or a lie, the latter passing for a term perfectly synonymous with a moral falsehood. It is true, we cannot pretend to teach the proper use of a language in which we candidly acknowledge our deficiency: however, it ought to be remembered, that things different in their nature and tendency must be materially different; that speech and silence, as moral actions, must admit of various degrees of morality or immorality, from the effects which they produce and the difference of intention from which they proceed. It is well known, that persons commit faults by a culpable conduct, and run into crimes through malicious purpose and design.

Why is it, then, that the least deviation from truth is a falsehood or a lie? Are there in speaking no intermediate degrees of defect of moral rectitude? Is it the peculiar nature of this kind of actions that they admit only of extremes? If a breach of promise is a lie, what name is left to signify the most injurious falsehood?

Are there particular laws that prohibit innocent recreations, necessary diversions in conversation, that is, in speech?—Nay, the nature of things requires, that speech or silence be referred to imperfect obligations and laws as well as to those which are perfect. And is not that reference necessary for obtaining a true and stable criterion of what is just or unjust, honest or dishonest, sincere or insincere, human or inhuman, decent and proper or indecent and improper in speech or silence? Is there not both a material and formal difference between a breach of duty and an injury?

Would it not, therefore, be more consistent with logical truth, that deviations from moral truth which do not amount to a breach of duty, where others either do not
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or have no right to expect that we should speak the truth, be denominated *untruths*; whilst those untruths which are repugnant to imperfect obligations and laws should be called *falsehoods*; and that falsehoods committed contrary to perfect obligations and laws should be branded with the appellation of *lies* of different degrees of heinousness, according as the author has acted with greater or less culpableness or malice?

Sch. 3.—All those authors on morality whom we have had an opportunity to consult agree in this particular, that the duty of taciturnity requires our thoughts to be kept secret where the great ends before mentioned render that secrecy necessary; but they differ with respect to the use of means. Some will admit of no other than bare silence, making no allowance for occurrences where silence speaks louder than words, even serving to heighten the deception, and where it is apt, as in cases of suspicion, to construe innocence into guilt, a culpable action into the greatest malice. Others justly allow the use of pretexts, or the exhibition of signs whereby the truth may be concealed, when we are intrusted with secrets on which the welfare of our country or of our neighbour and perhaps the safety of our lives depend, and where bare suspicion would have a fatal or a pernicious effect: but these also differ with respect to the particular cases and circumstances as well as with regard to the means and manner by and in which the inward thoughts and sentiments of our hearts may be concealed from others consistently with the dictates of the law of nature. There are some who admit a falsehood to be made use of for that purpose; others again forbid it, and advise a careful search after equivocations.

Sch. 4.—But it is time that we should give their particular opinions on this subject:—"There are falsehoods which are not lies, that is, which are not criminal; as,

1. Where no one is deceived, which is the case in parables, fables, novels, jests, tales to create mirth, ludicrous embellishments of a story, where the declared design of the speaker is not to inform but to divert; compliments in the subscription of a letter, a servant's denying his master, a prisoner pleading *not guilty*, an advocate asserting the justice, or his belief of the justice of his client's cause. In such instances no confidence is destroyed, be-
cause

cause none was repofed; no promise to fpeak the truth is violated, becaufe none was given, or underftood to be given.

2. Where the perfon to whom you fpeak has no right to know the truth, or more properly, where little or no inconveniency results from the want of confidence in fuch cafes; as, where you tell a falfhood to a madman for his own advantage, to a robber to conceal your property, to an affaffin to defeat or to divert him from his purpofe, &c. It is upon this principle that, by the laws of war, it is allowed to deceive an enemy by feints, falfe colours, fpies, falfe intelligence, and the like; but by no means in treaties, truces, fignals of diftreff at fea, or fignals of capitulation." Vide Paley's Principles of Moral and Political Philosophy, chap. 5. Vide alfo for further information, Hutcheſon's Moral Philosophy, Part II. ch. 10. § 7, &c.

Sch. 5.—The reader will obferve, that according to our diftinction all the cafes which have been laid down by thofe authors come under the predicament of moral untruths; we may therefore lay down the following maxims as guides to direct our fteps through the irkfome difficulties with which converſation is befet:—

1. It is a duty to fpeak the truth as it is, when it muſt neceffarily be known for promoting the glory of God, our own happinefs and that of others.
2. We ought to keep the truth ſecret, when a declaration thereof would be repugnant to theſe great ends.
3. Great care is neceffary, that both ſpeech and ſilence, reſpectively warranted by theſe ends, be ſeaſonable with reſpect to time, place and other circumſtances.
4. Where taciturnity is neceffary, we are allowed to make uſe of thoſe means which are neceffary for concealing the truth.
5. It can never be neceffary for us to ſpeak what we have defined to be a falfhood, much lefs a lie, in order to conceal a truth. If the duties of taciturnity have for their object the glory of God, how can an action contrary to the natural laws, which we have proved to be divine, be conſiſtent with that glory?
6. No deviation from truth, contrary to imperfect obligations and laws, or even thoſe which are perfect, provided the

the agent in the latter case has not acted maliciously, is or can with propriety be called a falsehood or a lie, when higher laws or duties supersede them; that is to say, if the one or the other is either physically or morally impossible. Should we accuse a man of a falsehood or a lie who has disappointed us in a meeting, or in lending money, or making a payment, which he had promised; when the disappointment, the trouble, expence, or loss we have sustained, is caused by his sickness, by a robbery committed upon him, or by his forcible detention in captivity?

7. In cases where it is doubtful whether it is for the glory of God or for our own happiness and that of others, that we speak or conceal the truth, it will be well to examine the object of speech or silence, the time, place, &c. by the various rules of human rectitude. Is it just, honest, consistent with uprightness, with humanity, and with a good conscience? Is it consistent with decency and propriety? What will be the proximate, what the remote consequences, &c.
8. No man who sets a value upon a good conscience will indulge himself with unnecessary, much less with wanton deviations from truth.
9. It ought to be observed, that the duties of speech deserve our most careful vigilance; for deviations from a strict observance of them are peculiarly hurtful and dangerous, since the evil effects of them are not so easily perceived or avoided as the consequences of other actions. Falsehoods and lies, like the pestilence, walk in darkness, and invade when no danger is expected; like the father of lies they assume various forms—the form of truth, of friendship, &c. they wound and kill at a distance; they are weapons easily concealed, soon unsheathed, always at hand, and in every one's possession.

We have defined moral falsehood to be that deviation from truth by which we act contrary to our neighbour's imperfect right.

It is our duty to abhor and to avoid *moral* falsehood, because it is our duty to avoid all manner of deceit, impro-

impropriety, insincerity, dissimulation and inhumanity; in a word, it is our duty sincerely to obey imperfect obligations and laws, carefully to respect the imperfect rights of others, and conscientiously to avoid a breach of duty.

Sch.—If an indiscreet declaration of the truth is so unbecoming the human character, what idea shall we form of the authors of falshood, of those who countenance calumny, and of those who propagate it? All that can be said is this, that falshoods have their different degrees of turpitude, according to their effects and various other circumstances, with reference to the intention of the agent, the abettor, the propagator, &c.

Let it be remembered, that a wilful falshood has in it so much of the malignity of a lie, that it can hardly be distinguished therefrom, except that it was not in the power of the calumniator to perpetrate the injury. Characters who deal in falshood invite the contempt of the discreet part of mankind; envy and malice are therefore as impotent as they are restless. The character of the honest and upright man is invulnerable.

A moral falshood, whereby another suffers injury and damage, is a *lie*.

As by speaking we understand the exhibiting any signs of our thoughts, it is plain, that we can both act and speak lies.

By exhibiting signs whereby others are deceived or injured, we are said to become guilty of the *crime of falsifying*.

Falsifying by other actions than words spoken or written, as the term is taken in its most common acceptation, is called *real*, and comprehends forging, coining, counterfeiting, and other injurious adulterations. Falsifying by words spoken or written is stiled *verbal*, and extends to lies, libels, and other kinds of injurious defamations.

Sch.

Sch. 1.—A well written satire is so far from being of a defamatory nature, that it is, on the contrary, necessary veracity, exercised not against persons, but against vice, inhumanity, &c.

Sch. 2.—The appellation *lie* is so very offensive and so generally abhorred, that it would justify a presumption that this vice has no abiding place on earth. We really might wish, both for the honour and for the good of mankind, that fraud, calumny, traduction, &c. would never dare to rear their heads. What a sorrowful aspect do electioneering cabals commonly present us!

Sch. 3.—It is justly observed, that lies may be acted: for instance; the man deeply in debt is strutting along in the finest dress at the cost of his creditors: the man possessed of a competency, or perhaps blessed with great abundance, is always complaining of want, or lives in a penurious manner, and is not free to impart of his superfluities to his indigent neighbour.

Since it is possible that signs foreign or even opposite to the thoughts of the speaker may be exhibited, it follows, that we cannot always with certainty infer the moral truth from what is spoken or written; for as little as signs are naturally calculated to shew with indubitable precision the inward sentiments of the heart, so little are we able to penetrate into the thoughts of him who exhibits such signs. We may be deceived.

However, as it is absolutely necessary, in many occurrences of life, that, for the glory of God and for our own felicity and that of others, we should know whether our neighbour speaks the truth or deviates from it, and as these are the very cases in which our neighbour is bound strictly to exercise the duty of veracity, it follows, that we have not only a right to require, but that he also is under particular obligations to give us a convincing proof or test of his sincerity and veracity.

Actions

Actions or declarations used as a test of our sincerity and veracity in speaking the moral truth, are called *asseverations*.

Asseverations are distinguished into the *improper*, the *unnecessary*, and the *necessary*.

Sch. 1.—To make use of improper asseverations, by cursing, swearing, &c. is a folly, and a striking mark of a mind as indiscreet and rude as it is impious.

Sch. 2.—The using unnecessary asseverations not only betrays meanness in the speaker, but may be taken for a pretty sure sign of his want of sincerity.

Sch. 3.—The necessary asseverations are again distinguished into the *ordinary* and the *solemn*; the former ought to be conducted with prudence and propriety, and should serve for the purpose of private transactions; as the expressions, it is certain, you may depend upon it, it is true, upon my honour, &c.

Sch. 4.—The solemn are principally used in transactions of a public nature.

No asseveration is better calculated for a test of our sincerity, or more solemn and awful, than when the speaker calls upon God as witness of his thoughts, and as avenger in case he swerves from moral truth. This solemn and awful asseveration is called an *oath*.

By the *external solemnities* of an oath we understand certain external acts, whereby the mind of the juror may be deeply impressed with a sense of the omniscience, omnipotence and justice of the Deity, and whereby he shews to others that he considers himself in a most particular manner in the presence of him who is the searcher of hearts, the righteous judge of the earth, who can and will punish the wicked and those who are guilty of falsifying.

Sch. 1.—There are different solemnities in vogue, concerning the propriety, necessity and lawfulness of which much

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controversy has taken place. There is, however, a pretty general agreement with respect to the necessity of external solemnities, as there are cases where we ought, by some act or another, to be convinced of a person's veracity and sincerity, before it can be expected that we should give assent to his testimony. But the subject of the controversy is, which are those particular acts? for it does not follow from that general necessity, that those adopted by one class of people are more necessary than those advocated by another. With respect to the propriety, it ought generally to be observed, that such are most eligible as are best calculated both for convincing us of the juror's veracity, and for impressing his mind with a lively sense of the omniscience, omnipotence and justice of God. However, as a variety of external acts may produce such effects, and as these may in a great measure depend upon different customs, habits and sentiments, it follows, that the propriety of solemnities must be left optional and undetermined, with this proviso, that they be not naturally unlawful, that is to say, not indecent, not contradictory to the ends for which solemnities have been proved to be necessary; they must consequently not be trifling, diverting the mind of the juror from a serious consideration of the awful situation in which he is making his appeal to the omniscience of God and the righteous judgment of him who is infinitely powerful, just and holy.

Sch. 2.—There are likewise solemnities necessary in tendering the oath. It is highly reprehensible when the solemnities prescribed by the respective laws of countries are exhibited or performed in a careless or slight manner, as if swearing were but an indifferent and ordinary transaction. How can we expect that the mind of the juror is properly impressed with a sense of his awful situation, when he who tenders the oath shews hardly any symptom of seriousness?

Sch. 3.—Since the greater or less propriety of the different kinds of solemnities in vogue do not essentially constitute the oath, but are only necessary concomitants thereof, it follows, that indulgence from the party who tenders the oath is as commendable as accommodation and moderation on the part of the juror. Things of this kind indeed come with the best grace from those who fill the stations of fathers

thers of the people: the persisting, however, in a particular mode on the part of those who are under the controul of the law of the land, shows that prejudice preponderates.

Sch. 4.—The *internal solemnity* of an oath, or its essence, consisting in an appeal to the omniscient, omnipotent and righteous God as witness and avenger, it follows, that, if that appeal is sincere and our testimony morally true, and, as it is expressed, the whole truth, it is lawful, however it may have been modified with respect to outward solemnities: if that appeal is insincere, and the juror does not speak the truth and the whole truth as far as he knows it, it is unlawful under whatsoever solemnities it may have been taken. The solemnities do not change the nature of truth; they cannot render that right which is wrong, and vice versa.

There is another solemn asseveration, known with us under the appellation of *affirmation*, where the speaker makes only a bare declaration, sanctioned by the solemnity of the act itself, that what he speaks proceeds from the sincerity of his heart, and is the moral truth, and the whole truth as it is known to him.

Our laws, for particular reasons, admit of such an affirmation instead of an oath, and attribute to it all the juridical effects which an oath produces. They very justly contemplate it as an expedient well calculated to accommodate the scruples of conscience which some persons have contracted from misinterpretations of several passages of scripture, where mention is made of several improper modes of swearing; which passages, however, can be as little against the taking a necessary and lawful oath, as the sacred writings can contradict themselves. We call the accommodation on the part of government just, because nothing is more becoming its dignity than lenity, wherever it can be exercised in a manner consistent with justice and the public good.

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No person, we trust, can entertain a doubt but that the admission of affirmation in these and many other cases is eligible, as it has all the internal solemnities of an oath. Though no express appeal is made to God, still the very act fully amounts to it; for it is a declaration made before an omniscient, omnipotent and just God, who punishes falsifiers: no formal appeal can give him a new or an additional right.

Affirmation may therefore be considered as an oath made without the external solemnities thereof: nay, where it is directed or permitted by law, the very act and the very expressions whereby it is made must be considered as the external solemnities.

Sch. 1.—A celebrated author has justly observed, that the obscure and elliptical forms of oaths, together with the levity and frequency with which they are sometimes administered, have been the cause of a general inadvertency to their obligations. He wishes, that in many cases something which might answer the purposes of a convincing asseveration should be substituted for the formal oath in all its solemnities. We shall not determine which of the modes is most eligible, whether the expedients that author advises, or the affirmation, or the practice observed in some countries, where, for instance, the judge asking, *Can you testify this upon your good faith, by giving me your hand in lieu of an oath?* the deponent, by answering yes and giving him his hand, has given a full testimony as to juridical effects, in all cases which are not of great moment or serious consequences. Vide Paley's Moral Philosophy, chap. 16.

Sch. 2.—However much it is to be wished that oaths might become less frequent, still it ought to be observed, that what can be justly affirmed may be justly corroborated by an oath; the one is consequently as sacred as the other. Let him, therefore, who swears or affirms, always remember that he calls God to witness, and that he is bound to speak the moral truth as far as he knows it.

Sch.

Sch. 3.—There is a general complaint against the taking of oaths for establishing the truth in cases of little consequence; as, for instance, where the object of controversy is the loss of one, two, &c. shillings. Many an honest man chuses rather to lose five times the sum than to take an oath. But in this there is more speciousness than justice and truth. Is it the value of money, or the cause of justice and truth that renders an oath necessary? Is not the greatest oppression, injustice and falsehood very frequently committed in transactions where confidence has been placed in the honesty of persons, because they have been considered as able and willing to fulfil engagements which are not of great moment? Should we be delicate in cases where the cause of injury and injustice can boast of triumph over virtue and honesty?

Besides the criteria heretofore explained of the willingness of persons to speak the moral truth, the making oath or affirmation must be taken for particular tests of the deponent's sincerity and of the moral truth of his deposition. No immediate inference, however, can be drawn either from the one or the other, that what is spoken is logically or really true; for the sincerest and best disposed persons may be mistaken in their ideas, and, notwithstanding their veracity, may happen to testify a logical falsehood.

Sch. 1.—It cannot, therefore, be immediately inferred from an assertion morally true, that it is logically so. It is possible, too, for a person to speak logically true and morally false.

Sch. 2.—For instance: a person over-hearing the conversation of others, where mention is made of a ten pound bill, cannot say, consistently with moral truth, that a ten pound bill has been given in payment: the denomination of dollars might have been mistaken by the party for that of pounds: but he swears morally true, if he testifies that he heard mention made of a ten pound bill.

Sch. 3.—But from the moral truth we may in many instances collect the real circumstances of particular facts; for, being thereby convinced of the speaker's sincerity, nothing remains but to ascertain his capability to speak the real

real truth, in order to be convinced of the reality of the particulars of his testimony.

Sch. 4.—Hence the propriety of examining as many witnesses as we can have; for the circumstance of many persons agreeing in their depositions leaves less doubt with respect to the veracity of the witnesses as well as the reality of the object of their testimony.

Sch. 5.—As it is possible for witnesses in these cases to disagree, some not having been in a situation to acquire that experience which others have obtained; some again not having paid that strict attention to every circumstance, or not retaining the full recollection thereof, which others have; we may not from this disagreement infer insincerity, or charge persons, from contradictory testimonies, with moral untruth: for we are not sworn, in all assertory testimonies, to speak the real truth; no authority can bind us to a physical impossibility; but we are sworn to speak the moral truth, all that we know, and as it is known.

Sch. 6.—It is an important duty that we testify the moral truth, even when we are not called to witness, if for want of our evidence the innocent should be wronged or oppressed. Our neighbour may often not know that we have any knowledge of certain transactions; in such case we ought to offer our testimony.

Sch. 7.—It is therefore highly criminal, and the agent certainly cannot escape the imputation which is consequent upon the commission of wrong, if he prevaricates or endeavours to evade giving his testimony.

Sch. 8.—A most sacred regard for the cause of truth becomes us as men and as christians: we should have no respect of persons, neither consult our own ease or popularity, when the cause of justice and truth calls for the exercise of the duty of veracity.

The *validity* of oaths is distinguished into natural and legal.

The *natural* validity of oaths consists in their internal solemnities, that is to say, in the juror's or affirmant's acknowledgment of an omniscient, omnipotent and just God,

God, who will by no means hold guiltless, but will punish those who take his name in vain.

Idolaters and superstitious persons, who attribute to their fictitious deities those perfections, can swear an oath which is morally and naturally valid, though it is, in a theological point of view, improper and false.

Theoretical atheists, and such of the tribe of deists as deny the providence of God, cannot swear an oath which is naturally valid.

An oath is said to be *legally* valid when it produces a juridical effect, and when tendered and taken under the external solemnities established by the laws of the country.

Hence it follows, that no immediate inference holds good from the natural validity of oaths upon that which is legal, and vice versa.

Atheists, and the afore-mentioned deists, complying with the external forms of oaths or affirmations, swear legally valid; for they exhibit signs which induce others to believe that they acknowledge the omniscience, omnipotence, justice and providence of God.

Oaths are distinguished into promissory, assertory, necessary, judicial, voluntary, and purgatory.

By the *promissory* oath we confirm our unalterable resolution to stand to our engagements.

By that which is called *assertory*, a fact is certified.

If a party before a court refers the cause to the oath of another, it is called *judicial*.

An oath is said to be *voluntary*, if one of the parties by private deed refers his cause to the oath of the other.

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An assertory oath required by a magistrate is said to be *necessary*.

An oath is said to be *purgatory*, when we thereby refute suspicion or imperfect proof.

Perjury is that horrid crime where a person wilfully and knowingly, under the qualification of an oath or affirmation, declares an untruth to be true.

Sch. 1.—A wilful perjurer is a blasphemer; for calling God to witness what he knows to be false is virtually attributing to him imperfections.

Sch. 2.—The perjurer is likewise the moral cause of all the consequences resulting from his insincerity and falsification.

Sch. 3.—If we reflect upon the general consequences of this horrid species of perfidy, that it tends to destroy all confidence among mankind, we shall find there is no crime more horrid or detestable.

Sch. 4.—All authors of asseverations which have a judicial effect are guilty of this crime, though they have not formally sworn or affirmed.

Sch. 5.—From which it follows, that persons who offer their oath are justly deemed as perjured, if they have thereby raised an expectation in others to which they intentionally remain unfaithful, or were determined at the time they made that offer to deceive the confidence placed therein.

No oath can be lawful that is extorted, particularly where a man is put into a state of necessity, that is to say, forced to swear upon pain of death.

Sch. 1.—In this case several questions arise:

1. Whether, under such circumstances, a person ought to have taken an oath, or rather risked his life?
2. Whether an oath taken under such circumstances ought to be kept?
3. Whether the breaking such an oath amounts to perjury?

Sch. 2.—The determination of these questions principally depends upon the consideration whether the juror was really in an unjust manner put into a state of absolute, extreme
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or respective necessity, and whether in either case his own agency has not led to his being placed therein.

Referring the reader, therefore, to the explanations which we have given of these states, we willingly leave the decision with the unfortunate person, rather than with the dry philosopher and disputant, who sits at his fire-side reasoning on what he never has experienced and perhaps never shall.—It is easy said, rather lose your life than take such an oath.

With respect to the second particular, it is to be observed, that an oath may confirm, but can never constitute an obligation. An oath, therefore, cannot bind us to do what is wrong and contrary to all manner of obligations.

As for the third particular, it is plain, that what is unlawful to be taken and unjust to be kept, ceases to be a crime when dismissed as soon as possible.

Sch. 3.—It is a wrong idea to suppose that an oath is a promise to God.

Sch. 4.—*Extorted* oaths, where a person has been put into a state of unjust fear, or threatened with unjust violence, have nothing left with respect to moral agency in the oppressed, but the name without the least shadow of validity.

There may be cases wherein an oath lawfully tendered and taken becomes morally impossible with respect to a literal performance thereof: for instance, the oath of allegiance binds virtually to sincerity and faithfulness towards the state or nation of which we are members: this oath, however, may be literally worded in sentences which refer to the person or persons administering the public affairs of that state or nation. Suppose such persons become usurpers, and subvert public good; are we bound to support them in their iniquitous designs? No rational man will say so. No oath can bind us to destroy the rights or liberties of our country.

CHAPTER VIII.

Of pacts and pactionary rights.

AS long as we depend upon the help and assistance of others, on the tenure of imperfect right, so long our felicity in that respect is uncertain and precarious; for others may withhold or withdraw it at a time when it may be most wanting: our happiness, therefore, would be better consulted, and we might with greater security and ease enter upon pursuits more extensively useful, if we could place ourselves in such a state as to obtain a perfect right to demand, and in case of refusal, to compel that assistance.

It is therefore a duty, that we think of lawful means by which the expectation of that assistance may become of perfect right on our part, and of perfect obligation on the part of our neighbour.

Both reason and experience know of no other lawful ways of obtaining such a perfect right in what is naturally our neighbour's own, than by the law of reparation, which we shall in future call the *law of forfeiture*, or by his formal and determined will and consent; that is to say, there is no mode, besides forfeiture, to obtain a perfect right in our neighbour's property or person, but by *way of pact*.

Before we can well understand the nature of a pact, we must have a distinct knowledge of all its ingredients.

The *ingredients of a pact* are these four: promise, consent, acceptance, and transfer.

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By *promise*, we understand that declaration of the will by which we signify to another our intention of performing something beneficial to him: if the promisee offer to the promiser something advantageous in return, the promise is said to be *mutual* or *reciprocal*.

Sch. 1.—No mutual promise, or claim founded upon it, can take place without a previous *simple* promise, or the performance thereof.

Sch. 2.—It is to be observed, that some authors take promise in a sense quite different from that which our definition determines; some even designate pacts by that name.

Since both simple and mutual promises are declarations of the will, it follows, that such as cannot exercise their will cannot make lawful and binding promises.

The exercise of the will depends either upon a physical or a moral possibility.

Those are destitute of the physical possibility who cannot exercise their understanding, or have not the liberty to exercise spontaneity; as, children of a certain age, with respect to a great variety of things; lunatics and madmen, with respect to all manner of objects; persons in a delirious paroxysm of sickness: likewise, those who are under co-action, or particularly in a state of necessity.

A moral possibility to exercise understanding and will has reference to the lawfulness of the object of promises. If we promise a thing that belongs to another, or is repugnant to law, the promise is *ipso facto* void; that is to say, it is wrong to make it and unjust to keep it. A lawful promise may likewise become unlawful with respect to the eventual performance thereof.

There is also a physical impossibility conceivable
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in promises with respect to their objects, if such objects are not in our power.

Sch.—In this case we may distinguish three particular circumstances: 1. either that the promiser knew the impossibility at the time he made the promise; 2. that the impossibility not then foreseen happened by the wilful act of the promiser; or, 3. that the impossibility arose by accident.

In the first and second cases the promiser is guilty of intended fraud; in the third he is free from guilt.

Since it is the nature of promises to be for the advantage of others, that is, for aiding and assisting them by the use of our powers; and since our powers are various, either those of the soul or of the body, or such as may be derived from our estate or influence; nay, since by each of them our neighbour may be aided and assisted in an innumerable variety of ways, and in various degrees; it follows, that promises, with respect to their objects, must be inconceivably multifarious.

In whatever manner we assist others, the consequence will be, that they possess our powers as far as that assistance extends. But since promise implies an intended assistance, it follows, that by promising we declare our will that some of our powers should become another's own, that is to say, that what is our own should become another's.

But as from the will of any finite being no immediate inference can be drawn of the existence of things, it follows, that by the promise of any finite being the object thereof does not become our own; the bare promise, therefore, gives the promisee no perfect right in the thing which has been promised: the promiser, for instance, may change his mind, or the promise, with respect to performance, may become physically or morally

rally impossible: it is likewise possible for the promisee not to be willing to have the object of the promise. So much is certain, that promises are among those things which are not and indeed cannot be obtruded.

The least that is required on the part of the promisee is his consent, for without this the performance would be destitute of an object. We might promise to the man of the moon as well as to a person who rejects our offer, with this difference, that in the latter case we shew more discretion, and act from principles of philanthropy.

Moral consent consists in an identity of will declared, or supposed to be declared, by free agents, with respect to the chusing or rejecting of particular objects.

Persons not having the physical faculty to will, cannot consent; as, children, with respect to many things; lunatics and madmen, in all cases; persons in a delirious state, caused by a natural derangement of their faculties; and all who are under co-action, particularly in a state of necessity: for in these cases agents have not the exercise of understanding, or no room left for exercising spontaneity: they may utter words, or do actions, which, by a grammatical construction, denote what may be called *physical* consent; but as no moral agency takes place, the consent is not moral, and consequently void.

Sch.—There is a vast distinction between the promise or consent of a person in a delirium occasioned by sickness, and that of persons who have placed themselves in such a state by intoxication and drunkenness: it is true, in both cases the agents know not what they do or ought to do; but in the first the actions are not moral, and in the last they may have different degrees of immorality and guilt.

Persons have not the moral possibility to will, when the object of their intention is unlawful: we may not consent,

consent, that what belongs to others should be made use of or be taken away; neither may we consent to things which are repugnant to the dictates of the natural laws: suppose things which are lawful should become, in course of time or under circumstances, of a contrary nature or tendency, it cannot be just that we continue our consent.

Unlawful consent, with respect both to its origin and continuance, is not only void, but also criminal and wicked, with reference to the moral cause as well as to the proximate.

Persons who do not understand one another's meaning, cannot exercise an identity of will; consent, therefore, in such circumstances, is void: if it proceed from the spontaneity of one or the other party, it becomes more or less criminal, according to the various degrees of immorality flowing from the intention of the agent and effect of the deception.

Since an identity of will implies a purpose that some effect should take place, that is to say, that something should be brought into existence; and since nothing exists but what is of an individual nature; it follows, that the object of consent must be particularly determined, and that moral consent is and in its nature must be *particular*.

Universal consent is therefore only *ideal*, and may be said to find place where a latitude is left with respect to the particular actions, as well as the modes and manner, by and in which a purpose may be obtained or effected.

Sch. I.—Still the purpose is always something of an individual nature: if the end is just, we may be supposed to consent to all just means leading to that end, but not to those which are of a contrary nature: for instance; I consent
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to let a person have a certain part of my property, provided he satisfies my creditors; he may do that by paying cash, or giving other security, &c. But suppose he robs another person, and satisfies my creditors with the money he has thus unjustly taken away; can any part of this wicked deed be charged to my account upon that general or universal consent?

Sch. 2.—If we reflect on the legislative and executive powers of government, there seems to be an universal or general consent of the people necessary for the exercise of those powers in enacting and putting into execution public laws and ordonnances, which are things eventual, and of such a nature that they cannot be determined: however that may be, it ought to be observed, that, in free governments, neither the persons administering those powers, nor the effects of the exercise of them, with respect to the purpose and ultimate end of the consent of the people, are things of a general nature. The purpose of my vote at an election, with respect to the representative body of the people, is eventually for that individual person who has obtained the majority of votes. The consent, likewise, of citizens, with respect to laws, becomes specific if referred to each particular clause which they contain, or rather is specific, because it concentrates in every thing that is found by the majority to be most conducive to the public good.

Sch. 3.—Gentlemen who confer the title *my constituents* solely upon the county, district or state from which they derive their political existence, or who consult its interests separate from the interest of the whole, have not sufficiently considered that they hold their station by the consent of the country in general, and that they must consult the public happiness of all if they do justice to their constituents.

Sch. 4.—The regulations and specific laws, therefore, in all their particular clauses, bind every citizen, as they have taken place by his consent, and must remain his laws as long as they are judged by the majority to promote the public good.

Where there is no identity of will, there cannot be a consent: if, therefore, it should be an object of enquiry,

ry, whether a person has or has not consented, it must be made to appear that he is or has been willing, or must be supposed to be either the one or the other, with respect to some particular effect or consequence.

There are various ways, therefore, by which the consent of persons may be inferred: it is either declared by words, that is, by signs which are in common use for exhibiting our thoughts, or is collected from actions and signs different from words; or it follows from the nature of things, and of other particular circumstances. In the first case, consent is called *explicit*, in the second *tacit*, in the last it is said to be *constructive*.

Sch. 1.—Both explicit and tacit consent is distinguished into certain or probable: to form a judgment of the one or the other, it is necessary that words be interpreted in their most ordinary sense, or in the sense in which it appears from other signs that they were intended to be used. With respect to tacit consent, we must judge whether an action has been performed with a view to raise a belief in others of our consent, or is known naturally to excite such a belief. The customs of places and countries and the complexion of other circumstances will be a great help for determining whether tacit consent is certain, supposed, or only pretended.

Sch. 2.—Constructive consent is of the utmost importance, and therefore particularly worthy our attention: it is by this that constitutions and laws are binding upon posterity—a subject which a late writer seems to have seriously disputed, denying that there ever has been any binding force upon posterity in any thing which their progenitors might have done. Suppose but for a moment, that there is truth or propriety in this assertion; the consequence will be, that no country can have constitutions or laws binding any persons at all. The framers of a constitution are perhaps all called from the stage of human affairs; laws exist, the authors of which now lie in the dust; a new generation has taken the room of their progenitors: if they are not subject to the regulations which their fathers

thers made by constructive consent, how can it be proved that they are subject at all? The mistake seems to proceed from the erroneous idea, that men enter life in an absolute natural state, having no connection with nor relation to others; which is as absolutely contradictory to experience, as it would be impossible for new generations to be happy without provisions of this kind being made by their ancestors: for it is known, that men come upon and withdraw from the stage of life so imperceptibly and so gradually, that it would be very difficult to pitch upon a time when the public acts of the present day would not have as prospective an influence on posterity, as those of our forefathers had on the present generation.

As long, therefore, as posterity abide under that constitution and those laws, as long as they reside under their government, so long they must be deemed to have given their consent. We allow that a dissenter may withdraw himself from the country which is under the jurisdiction of those laws, but we do not deem it just that he should have a right to attempt so hazardous an enterprise as to change them to his liking. Let the majority of the people at any time make use of that better established right of nature, by which a community may govern itself, as it is found best for the advancement of general happiness.

Sch. 3.—It is upon tacit and constructive consent that the laws and constitutions are binding upon each individual of the state: a stranger taking up his residence in a country is presumed to be willing to comport with its laws: he who gives free access to his house, is supposed to consent to a free departure: he who asks in a tavern for victuals, drink, &c. is supposed to have given his consent to pay.

Sch. 4.—It is upon constructive consent that we claim a right, given to our first parents, to the creatures of the earth: it is upon this consent that we have been parties in the covenant of works concluded with them.

Sch. 5.—These distinctions of consent are likewise applicable to promises: we may expressly promise by words which render the promise certain, or only probable. The same may be the case with respect to tacit promise: nay, there is likewise such a thing as constructive promises.

As soon as the promisee gives his consent to the
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promise, he declares that he will have the thing promised for his own; for in this case both his will and that of the promiser meet, and without it no consent could take place, as there would not be an identity of will.

But as nothing results from consent but will, it is evident, that from consent to promises a perfect right can with no more propriety take place, than a promise made can put the promiser under a perfect obligation to keep it.

It is no more than imperfect right and obligation, and therefore rests upon the person's own discretion and choice, whether he will or will not perform it; that is, there is no force or compulsion.

We stand to our promise if we actually and finally do for another's advantage what we have declared to be our intention.

We are most sacredly bound to beware of all manner of improper or unlawful engagements, and faithfully to perform all our lawful promises; for it is a sacred duty, that we act conformably to the precepts and prohibitions of imperfect obligations and laws, and make it an invariable rule to speak the moral truth.

He who is strict in observing his promises is a man of *probity*; a contrary character is justly reckoned despicable: a man who forfeits his word is either guilty of great indiscretion, or is a dishonest impostor; he deservedly loses his character and credit: these being gone, there remains nothing worthy the esteem of an honest man.

From what has hitherto been explained it follows, that if promise and consent respectively produce perfect
right

right and obligation, both the one and the other must be supported by certain acts from which these effects respectively result.

That act which the promisee performs in consequence of his consent, in order to have a perfect right in the thing promised, is called *acceptance*.

An act that produces such a right must be lawful; but no act, whatever its other qualities may be, can be lawful, that is to say, can be a mean by which we lawfully acquire a perfect right in what is another's own, except he consents to it, and consequently supports his promise by an additional act, declarative of his acquiescence in the acceptance of the promise. Such an act on the part of the promiser is called *transfer*, because his will, supported by an act of his own, is a sufficient cause why the other should have compensation for the trouble he has taken in performing acts which the promiser has encouraged, and by subsequent consent has directed and appointed: for the powers by which he thus acted were his own, and non-performance on the part of the promiser would naturally amount to a disturbance in what would be the property of the promisee, for as such the fruit of his labour must be considered.

The promise, on the part of the promiser, with respect to the acceptance, is conditional; as if he were saying, if any person does such a thing, I will give him such a thing for his own. If the promise is addressed to a particular person, it may be called *personal*, because the promiser consents to a certain act under this express condition, that the promisee be the particular agent thereof: but if it be addressed in general to the performer of a specified act, the promise is *real*, because any author of that act is the promisee, or rather the acceptor.

If, on the other hand, the act specified in that condition is performed, the performer, according to the tenor of that condition, is to look upon the thing promised as his own, as the fruit of his labour; that is, he has obtained a perfect right in it, and the promiser is under a perfect obligation to make good his promise.

Where, therefore, there is acceptance with the consent of the promiser, there *acceptance is effectual*, and transfer has taken place.

Sch.—It ought to be particularly observed, that consent on the promiser's part is most essentially necessary for rendering acceptance effectual; for, as the owner, he has a right to direct the things promised as he pleases, and to specify the conditions upon which he will part with his property. If the promise is personal, no other but the person described has a right to acceptance; if it be real, no one has a claim as acceptor except he who has done that particularly specified act which the promiser has engaged to take as an acceptance: for instance; if a father tells his youngest son that he will give him a watch if he learns his catechism within such a time, can the servant in the house or any of his other sons claim the promise, if the requisition has been complied with by either of them? or if you engage that any person who should be able to give you notice of a certain strayed horse shall have such a sum of money, are you bound to pay one who comes and gives notice of another of your horses which had not strayed? Certainly not.

By *stipulations* are understood particular actions or forms, which the laws or customs of a country or place have introduced for the purpose of taking the place of those acts by which acceptance and transfer are performed.

Sch. 1.—Stipulation is a word of Roman origin, and is derived from their particular custom of accomplishing pacts and contracts: it was thus: two persons took a piece of straw, broke it in two, and then exchanged pieces. Thus acceptance was made, consent to it given, and the requisite
acts

acts performed, both on the part of the promiser and of the promisee, for transferring perfect right.

Sch. 2.—Instead of the stipulations of the Romans, the modern Europeans have introduced, for the most common transactions of life, certain words, expressions, or signs; as, 'tis a word—done—may I depend upon it?—you may—shaking hands—nodding—striking with a hammer at vendue—giving an earnest—asking the price at markets or in stores, and consenting to this price, &c.

Sch. 3.—Since the art of writing has become general, the stipulations requisite in the more important occurrences of life must be done in writing: some are confined to this alone; others require hand and seal, and others again, besides these, a certain number of witnesses.

From what has hitherto been explained it appears, that effectual acceptance includes promise, consent, acceptance and transfer; that is to say, all the requisites necessary for constituting a pact: a *pact* may therefore be defined to be *a promise effectually accepted*.

There are various denominations or species of pacts; as, treaties, compacts, contracts, covenants, agreements, bargains, sales, &c.

That pact is said to be *formal*, which comprehends promise, acceptance thereof, and the promiser's consent to the acceptance.

That pact is *informal*, where a constructive promise or consent takes place.

Explicit pacts are such as contain explicit promise and consent; but those in which tacit promise or consent takes place, are called *tacit* pacts.

Persons who cannot promise or consent cannot be parties to a formal pact, whether tacit or explicit.

A pact is void when either promise or consent is not in the power of either party.

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Sch.—If the impossibility of performance has been known by the promiser, or if it has been wilfully caused by him after the pact has been concluded, he is guilty of perfidy, fraud and injury.

A pact wherein either the promise or consent is unlawful, is invalid and unlawful.

If the terms of a pact admit of different constructions, the performance is to be made in the sense which the promiser apprehended at the time the acceptor received it.

Sch.—Having laid down the three requisites for a formal pact, to wit, promise, acceptance, and consent to this acceptance, or what is called transfer, it ought to be observed, that we do not in all transactions find them always distinctly exhibited, so that it requires some deliberation to determine who is the promiser or acceptor; as, for instance, in stores and markets: the goods or provisions exhibited are doubtless promised on condition of acceptance, that is, a certain price stipulated: the buyer consents by asking the price, and supporting it by paying what is required, the bargain is concluded.

In all cases, except that of forfeiture, where we make use of another's property without his consent to our acceptance, we are chargeable with *usurpation*.

A *protest* is an explicit declaration of our dissent to certain proceedings, and a suitable and necessary expedient for the preservation of our rights, particularly in those cases where silence might be construed into tacit consent.

Since by the stipulations of a pact the promiser has transferred his own to another, investing him with a perfect right to dispose thereof as he shall please, it follows, that the former is under perfect obligation to perform what he has thus promised and aliened.

Hence

Hence it likewise follows, that the acceptor has a perfect right to demand, and in case of refusal, to compel performance.

Pacts extorted by unjust fear, or by the violence of one of the parties, are void for want of *moral consent*; but if that fear has been occasioned by persons who are not a party, or who are not in collusion with one of the parties, both parties have acted freely, and the pact is valid and binding; for a fault committed by a third person cannot be prejudicial to one who is guiltless.

The duty of performing pacts has reference solely to such as are lawful; for illicit plots, or unlawful agreements or combinations, deserve not that honourable name.

Sch.—To form an estimate of the lawfulness or validity of a pact, we must particularly attend to the nature of the promise and consent, both with respect to the parties and their objects.

The perfect rights and obligations resulting from pacts, are called *pactitious*. Pactitious rights are reckoned among the *personal* rights of men.

If the promiser makes a declaration that he has changed his will, he is said to revoke; but as such a revocation cannot justly take place when the promise is effectually accepted of, except by the consent of the acceptor, it follows, that pacts are *irrevocable*.

Pacts are distinguished into *obligatory*, *liberatory*, and *mixt*: by the first an obligation is constituted; by the second a subsisting obligation is done away; by the last a new obligation is substituted in the place of one formerly subsisting between the parties.

There is likewise a distinction of pacts into *pure* and *conditional*: those pacts are conditional, where the promise

mise is made with the express proviso of its becoming binding upon a future event, the existence of which is uncertain. The obligation of performance in a conditional pact depends upon the existence of an uncertain event; as, for instance, ten years hence if I live, or when I shall enter upon a certain inheritance of which I have some expectation, &c.

Sch.—A certain event does not make a pact conditional though it be ever so distant.

Pacts made upon an impossible condition are void: if the promiser knew the impossibility, or if he is the cause thereof, he is guilty of fraud.

A pact to which no express condition is annexed, is *pure*.

Pure pacts are binding immediately upon being concluded; the conditional only when the condition takes place.

The most notable of conditional pacts are those which come under one of these forms: *do ut des, do ut facias, facio ut des, facio ut facias*; that is, where the parties stipulate *value for value, value for work, work for value, work for work*; as, money for goods or for victuals; money, goods or provisions for labour or services; work, labour or services for money or goods; work, labour or service for another kind of work, labour or service, or perhaps for the same at another time.

Rights are *temporary* or *perpetual*: the former are restricted with respect to time, which is not the case with the latter.

A pact by which temporary rights are transferred, ceases when those rights expire, though no express condition

condition be annexed. Parents, for instance, have no right to bind their children beyond the term of their minority: an indenture, whether conditioned or unconditioned, has no binding force when the term of minority expires.

He who is obligated by a pact to expedite the affairs of another, is called a *mandatary*, whilst the latter is stiled his *principal*.

No one can claim the right or trust of a mandatary who cannot make it appear that certain affairs are specifically committed to his care; because the principal's consent must be supposed, and there is no such thing as universal consent.

As the mandatary, by undertaking the commission of the affairs of another, is under a perfect obligation to fulfil his charge; so the principal has a perfect right to compel such commission, and in case of non-performance or mal-practice, to recover damages.

A *commissioner* is mandatary in all that is specifically entrusted to his care, and the principal is responsible for whatever he does in pursuance of this trust, but is clear of all whereby it is exceeded.

Sch.—The specific powers are either explicitly determined by credentials, instructions, &c. or are deduced from tacit or constructive consent, as they rest upon the custom of general practice of transactions of that kind, or flow from the nature of the trust itself.

A principal may conclude valid pacts with others by the agency of his mandatary; for the moral and principal cause can produce effects by others.

Pacts concluded with a mandatary, in the name of his principal, are binding upon the latter in all that the

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former has done in virtue of specific powers for that purpose.

There are some rights transferred, which, in their nature or under particular circumstances, involve the right of a mandatary; that is to say, imply specific trust: what, therefore, a person does in pursuance of such rights, is as binding on his principal as if he had given a special commission for the purpose; as, a general in procuring supplies, surrendering fortifications, consenting to a temporary armistice, &c. a servant sent abroad with a waggon, coach, &c. in having necessary repairs made, &c.

Pacts are distinguished into *unilateral* and *bilateral*. In the former there is but one promiser, and acceptance is justly supposed, because no reciprocal engagement is required. Of this kind of pacts are last will and testament, legacies and donations, which for this reason have obtained the name of *gratuitous pacts*. To this kind of pacts likewise moralists refer commissions undertaken gratuitously, gratuitous loans for use, gratuitous keeping of the goods of others, &c.

In bilateral pacts there is reciprocal promise, consent, acceptance and transfer. Acceptance and transfer cannot here be supposed, but are required by virtue of perfect right in both parties. Of this kind of pacts are treaties, compacts, contracts, &c. which for this reason are called *onerous*, because something is required on both sides.

There may be pacts of more than two parties; for instance, the triple and quadruple alliances recorded in history; the combination of the powers of Europe, so much the topic of conversation at this time, &c.

Pactitious

Pactitious rights and obligations may *cease* in various ways.

In a conditional pact the obligation ceases when the condition becomes impossible.

In any other pact, when the pactitious right is remitted.

Pacts are *dissolved* when both parties remit their reciprocal pactitious rights: the dissolution then proceeds from mutual consent.

Perfidy in one of the parties to a bilateral pact frees the other from obligation, if he chuses to avail himself of that expedient; if he is otherwise inclined, the pact is still binding on the perfidious party, who is liable to prosecution and bound to make reparation.

In a matrimonial contract there are various causes, both with respect to its nature and tendency, which render it indissoluble, even by the mutual consent of the parties.

PART II.

SECTION II. OF THE DISPOSITION OF THINGS.

CHAPTER I. OF THE DISPOSITION OF THINGS.

SECTION I. OF THE DISPOSITION OF THINGS.

SECTION II. OF THE DISPOSITION OF THINGS.

SECTION III. OF THE DISPOSITION OF THINGS.

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SECTION VII. OF THE DISPOSITION OF THINGS.

SECTION VIII. OF THE DISPOSITION OF THINGS.

PART II.

Sect. II. *Comprehending natural jurisprudence.*

CHAPTER I.

Of rights in things.

WE are said to *dispose* of things, if we determine, by an act of our will, the mode and manner in which they are to be used by others.

Sch.—Thus we dispose of lands, of houses, provisions, apparel, &c. if we sell, lease, exchange, or make a present of them, &c.

Those who have not the exercise of understanding, cannot signify their will in the moral sense of the term, and are consequently incapable to dispose of things.

Sch. 1.—In the forum of nature, children cannot dispose of things of importance before they arrive to years of discretion; and as this may take place sooner or later with respect to different individuals, the civil laws, which exhibit general rules for human conduct, have assigned a determinate number of years, antecedent to which no dispositions of youth are binding or valid: no male person, for instance, can convey landed property before a certain age, though he may lawfully make a present of something belonging to his personal estate, &c.

Sch. 2.—Lunatics, madmen, persons not *compos mentis*, or deranged in their minds by a frantic fit of sickness, cannot make any valid dispositions as long as they are in that state of natural imbecility.

Sch.

Sch. 3.—Neither can such dispositions be lawful where the things disposed of are in themselves unlawful, or not our own.

Sch. 4.—Things our own and lawful in themselves, cannot render a disposition of them lawful when it is made for a bad end; for in this, as well as in the two preceding cases, we have not a moral possibility to will.

If we may lawfully dispose of things, we are said to have a right in them.

The things of which we may dispose are either the actions of men, or the necessities and conveniencies of life, and what contributes thereto: in the former case our right is stiled a *right in persons*; in the latter, a *right in things*.

Sch.—Rights in things are distinguished into *real* and *personal*: the former have respect to things which cannot be carried out of their places, as *lands* and *tenements*; the latter take place in such things as may attend the owner's person wherever he thinks proper to go; as, money, goods, horses, waggon, utensils, furniture, &c.

Of whatever description things may be, there are various ways in which they may be disposed of; for things have their substances, and from these substances various emoluments may be drawn, and each of them may be disposed of for various ends, and under a variety of restrictions; so that it would be an endless work to enter upon all the particulars which laws and customs have introduced concerning the nature and modifications of the rights in things, and in consequence of them have been and for the most part are still in vogue.

We shall here principally confine ourselves to the consideration of the right of property, of use, and of usufruct, and the right of consuming the substance of things.

We

We have the *right of property* in a thing, when we may dispose of its substance and all other uses.

Sch.—Thus a person has a right of property in an orchard, when he may dispose of the trees and of their produce, and when he can extend his right of disposal to the destruction of the trees or of their produce.

In the right of property we may distinguish the moral possibility of acting, from the act itself; a person may have a right, and not exercise it of his own accord, or be debarred from that exercise by a restriction in his right. This is what moralists denote when speaking of a right in *actu primo* and a right in *actu secundo*. Both these acts together constitute perfect dominion, *strict property*, where one may dispose of it as he pleases, in a manner consistent with the law of nature. Imperfect dominion, on the contrary, is restricted with respect to the exercise of such an unlimited disposal; as is the case with minors, who by law or devise are proprietors of an estate, which is under the management of others until they become of age.

Where the right of property and the exercise thereof are in different persons, there a right of commonry results, extending to the exclusion of all others from disposing both of substance and emoluments.

When the right of property and the exercise thereof are in several hands, each party thus interested may exclude all those who have no interest in it from disposing of the substance and emoluments: but copartners may exclude one another only from the disposal of the substance and from hindrance in their actual uses: a tree, for instance, may be common property, and each may take the benefit of its shade; but a partner occupying a particular spot, has the exclusive right to it as long as it is occupied by him.

Persons

Persons having a strict right of property in a thing may retain its substance, if it is inconsumable property, and dispose of the emoluments under various restrictions: if the emoluments are for the own and proper use of the party to whom the proprietor has conveyed the property, his right is called *usufruct*, and he himself the *usufructuary*; if it is conveyed for the benefit of another, he has the right of use, and is stiled the *usuary*. However, as we do not intend to enter upon particulars, we shall hereafter call all rights in the emoluments of things, *rights of use*.

In cases where the use or usufruct cannot be drawn from the property without the destruction or consumption of the substance, the right of use and usufruct implies the right of consuming the substance.

Sch.—We cannot make use of salt, flour, &c. without consuming the substances of those things: we should draw but indifferent profits from a rented farm, if we might not cut the timber necessary for fences, houses, firewood, &c.

As the rights of use, usufruct and consumption flow from the strict right of property, it follows, that things which admit not of an exclusive right of use, usufruct or consumption, are not subjects of the right of property; that is, no property can be had in them; as, the open sea to a certain distance from shore, inexhaustible fisheries which such sea affords, the air, &c.

He who has the strict right of property may dispose of the substance and its emoluments as he pleases, because all are his own. What is commonly said, that a proprietor in disposing of his property is responsible only to God and his own conscience, is so far true as that disposition is consistent with the general good of mankind,

mankind, but not further; for, though a proprietor has a right to dispose of his property as he pleases, still he ought not to be pleased with any thing that is contrary to natural laws: the right of property is limited as well as all other rights of men, and in cases of collision, must give way to weightier obligations and rights. It is the established order of nature, that all men have their subsistence from the contents and produce of the earth; there cannot, therefore, be a natural right to set up an ownership, or to dispose of the things of the earth in a manner contradictory to the general good of mankind: nay, a right of property, a right to dispose of things as we please, ceases to be natural as soon as it is inconsistent with the general rights of mankind.

Sch. 1.—Hence it may be seen, that persons may, consistently with the principles of natural law, make dispositions of their property and other rights, which take effect after their death, in behalf of their children and nearest relatives and friends; because such dispositions are perfectly consistent with the general rights and obligations of mankind, and are required by that duty of love which nature has enjoined to men in that intimate relation.

Sch. 2.—A disposition, on the contrary, by entailment, is unnatural, because it is inconsistent with that love, since the disposer suffers himself to be swayed by unnatural partiality, and lays the foundation of servitude and domination, of strife and discord, among his own household, among the children of one father, among natural brethren. In order to render one independent, he makes the rest of his children dependent, and throws them upon the public: he is not prompted by love to his children or country, but by an ambition that proves injurious to both.

Sch. 3.—It ought to be observed, that unlimited and exclusive right in things, mentioned in the sequel, is always to be understood under this limitation, that it must be consistent with the order of nature, and of consequence with the eternal principles of natural law.

As the proprietor is vested with a perfect and exclusive right, with respect to the substance and emoluments of his property, so all the rights which he conveys are of a perfect and exclusive nature.

If, therefore, he has once conveyed any right connected with his property, those persons who are vested therewith have not only a right to exclude others, but even the proprietor himself, from interfering in their respective rights. It is on this account that not only common conversation, but even treatises on the subject of rights in things, attribute to the rights of usufruct, of use, and of many other kinds of tenures, the name of property.

At this rate, the usufructuary has a right of property in the usufruct, the usuary in the use, &c.

As the proprietor is injured if the usuary or usufructuary waste his substance in an unnecessary manner, so the latter may be injured by the proprietor, when hindered from the substance absolutely necessary for the exercise of their respective rights: besides this, they have a peremptory right to exclude the proprietor and all others from interference in the emoluments to which their rights entitle them.

As the right of property is immediately connected with *the right of possession, the right of reclaiming possession*, when others unjustly retain property for their own use, and *the right of alienation*; so are the one or the other, or both of the former, connected *per se* with the rights of use and usufruct, when the emoluments cannot be drawn without possession, but not otherwise: the right of alienation cannot extend farther than their rights extend, and it is possible that
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the proprietor has granted those rights under the express restriction that they should not be transferred.

Sch.—If a farm is rented to a person and his assigns, he can alienate the usufruct as far as it is given him and for the term of his lease: but if assigns are not expressly mentioned, the civil laws will not permit the right of alienation, because such things ought to be expressly stipulated for the preservation of peace in the community; while, on the contrary, natural law would permit such alienations as far as they are not prejudicial or injurious to the proprietor.

With respect to the various tenures of rights in things, those authors may be consulted who have expressly treated of them. So much seems necessary to be here observed, that all those rights which are in vogue amongst Europeans, are of a feudal complexion, with this difference, that the smaller parcels of landed property are held for the considerations of rent, or part of the produce, when the more extensive possessions are in the ancient form of services.

By the feudal system, the conqueror, in whose place modern times have substituted the highest authority in a state, conveyed property under a certain reservation of right. He obtained the appellation of *Lord Paramount*: the latter was stiled simply *Lord*, or *Vassal*.

Sch. 1.—When the King of Great-Britain had jurisdiction over the country now the United States of America, he gave whole provinces to certain proprietors, reserving to himself and his successors a pepper corn, a beaver skin, &c. as an acknowledgment of his sovereignty and their dependence: the dependent lords parted in a similar manner with their property, for a certain consideration and for an annual quit-rent. Our state reserves all mines and precious metals, &c.

Sch. 2.—The several manors which are extant in the United States, and the thousand lordships which are in embryo and threaten this western world of freemen with tenantry
and

and dependence, make it worthy the attention of some able pen, a friend of mankind, to bring to public view the fatal consequences of feudal laws and customs. Of freeholders it may be said what Virgil extends to the useful class of husbandmen in general:

“ *O! nimium fortunatos, sua si bona norint,*
“ *Agrícolas*——

Sch. 3.—Those who cannot be freeholders, and of consequence are tenants, might live free and independent as well as the former in this country, where all citizens are on an equal footing, if, as the poet says, they knew their advantages; if they would set a proper value upon their rights of citizenship, and not, like Esau, sell them for a smile of their landlord. Is it not sufficient that you pay your rent and make good what the proprietor of the soil has a right to demand? Should you deliver up to him your rights of thinking and of chusing for yourselves? Indignant boast! that men peremptorily proclaim that they can procure so many hundred votes at an election; that another speaks of his great influence, &c. Let every freeman learn to know his own importance; let him learn to know his rights; let free Americans learn to scorn the man who pretends to influence at the price of their own character: for what is the man who suffers himself to be swayed and led as others think proper? I answer, so little a freeman, that, in such instances, he renders it doubtful whether he is a free or a moral agent.

CHAPTER II.

Of the originary mode of acquiring rights in things, especially the right of property.

THERE cannot indeed be such a thing as strict property by a right derived from nature considered in itself; for presupposing here what may be clearly seen by reason, and is expressly declared by scripture, that the

the earth and the various kinds of the produce thereof are proximately destined by the creator and preserver of the whole universe for the use of man; still there is nothing, either in the nature of men or in that of things, which warrants that sole and perfect dominion which one man claims and exercises over the things of this world exclusive of the right of others.

All that can be inferred from both these sources is, that the individuals of the human race, as they have the same nature, labour under the same necessities and wants, and feel the same desires, have an equal right in the substance and uses of all those things which are provided by the Most High for the necessary support of their existence on earth, or which are calculated to afford them the conveniencies of life.

Men, therefore, considered in their absolute social state, as fellow citizens of the earth, have a natural right of commonry, where no man may exclude others in a despotic manner from occupying the substance of things, or from using their emoluments, except it be in consequence of such restrictions as flow from the invariable order of nature, established by the infinite wisdom and power of God, whose will is the supreme law for the regulation of the conduct of men, in the use they make of those things which the heavenly Father hath been pleased to place under their dominion and direction.

As according to that order of nature men successively see the light of the world, so the laws of nature resulting from that wise establishment of the sovereign Lord of the universe, do not permit a succeeding generation to occupy what is already occupied, to destroy the

the labour and work of their predecessors, or to interrupt the peaceable use and possession of those things upon which they have bestowed their diligence and care; for such a conduct would be palpably wrong and injurious.

Hence it evidently appears, that there is an exclusive right, which results from the order and nature of things, by which the first occupant may exclude others from opposing him in the use and possession of those things which he has occupied, as long as this use and occupancy last.

Sch.—The history of the world informs us, that there has been property in things moveable, when the earth was yet considered as a common, and all men equally entitled to its produce. Thus Abraham claimed property in a well, because he had digged it.

But, when objects of occupancy became scarce, such transient property could not secure the peace of mankind: when the wants of the children of men became multiplied, it was found necessary to make the soil itself fixed and permanent property; by means of which one person might convey to another the fruits of his labour and industry, or a father transfer his right to his children, &c.

Thus, from the natural right which each man has in the fruits of his labour and industry, flows his exclusive right in the very substance improved by his labour and particular care, and hence it sufficiently appears why he rather should dispose thereof than another.

The right of strict property is therefore hypothetically natural; that is to say, depends upon some particular act or deed of the first occupier; and things thus

thus appropriated to his own use are exclusively his own, till such time as he does some other act by which he shews his intention to abandon it; that is, leaves property in the state in which it was before occupation, or till it counteracts the general good of mankind.

Sch. 1.—There is no doubt but the method of one man's abandoning his property, and another seizing the vacant possession, if ever it had place, did not long subsist in fact, not only because a possessor of property would find it more eligible to exchange his improvements for an equivalent, and, in consequence thereof, would chuse to transfer them by grant, sale and conveyance, rather than to relinquish them; but more principally because the powerful motives of that particular affection which is the natural effect of the ties of blood between parents and children forbid a conduct so incongruous to that tender relation.

To assert that the occupant abandons his property by death, is to allow to that king of terrors rather too much power: it is true, death separates the owner from his possessions, but cannot separate the effects of tenderness and love which a parent feels for his children, or defeat the rights naturally resulting from the tender ties of that intimate connection. Who should have a greater claim to the fruits of the labour of parents, than those for whose advantage they find both the greatest incitement and pleasure to undergo any fatigue and arduous undertaking? Death cannot take away the intention of moral agents; and that father who dies without an intention that his children should be vested with rights in his things, does not die as a father, or his children have forfeited that amiable name by enormous acts of disobedience and ingratitude.

The objection, that if *a father, or any person, had a right to dispose of his acquisitions one moment beyond his life, he also would have a right to direct their disposal for a million of ages after him, and the absurdity and inconsistency* dreaded from such a right, appear to us to have more speciousness than force; for there is a great rationality in that disposition. As it is the prerogative of our nature to have a prospect
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into futurity, so most of our dearest interests lie that way. Suppose a man had engaged, by pact, to consent to a transfer at a certain fixed term, say six, twelve, &c. months to come; suppose death to have terminated that man's existence, does the right of the other thereby cease? can death dissolve the eternal laws of justice? If a person makes a wise and rational disposition for the benefit of his nearest and dearest friends, he follows the dictates of natural laws, and does what every man feels an inclination to do; he provides for those whom he by nature is bound to love before all other persons; he does not stand upon a level with the indiscreet and foolish man who builds dispositions in the air, makes and does not make disposition; for such would be dispositions, if they should compass even a term far less than a million of ages. Dispositions, it should be thought, must have a specific object; and can a person know whether at such a distance of time any of his posterity will exist? So much is certain, that by the disposition of a deceased no person is injured, if that disposition was lawfully made in his lifetime; if otherwise, it ceased before death closed the career of the disposer.

Nay, is it not generally the case, as parents provide for their children, that these again provide for them in the days of their infirmity? Do not children bestow their labour and care upon things in which their parents have their rights, and thus mingle that which is naturally their own with the property of their parents? Can it be, that they should have no other natural right than that of being the first occupants? At this rate, death would not only rob the dead, but the living also of their natural right.

Sch. 2.—The assertion, that *all property must cease upon the death of a person*, cannot hold good with respect to dispositions which are made in his life-time, for this very reason, that men cannot be considered *as absolute individuals*, but are fellow citizens of the world, naturally dependent upon one another for mutual duties and happiness, though, in the strict sense of the term, *unconnected with civil society*.

We need not curtail men of their dearest natural rights in order to shew the unnatural tendency of entailments and feudal tenures; for the injustice of such institutions is sufficiently

sufficiently manifest from this particular, that they are repugnant to the general rights of mankind.

Those civil institutions, therefore, come nearest to the duties of natural law, which order the property of parents to devolve upon their children in equal proportions, because they are equally entitled to parental care and affection; they also very wisely leave room for express dispositions, which proprietors may make in their life-time concerning the use which shall be made of their property after their decease.

Sch. 3.—Whilst we allow that civil institutions and municipal laws have reduced the rights in things to general, fixed and permanent rules, for the wise purposes of preserving the peace of society, an object highly necessary and desirable; we maintain, that such rules ought not to be arbitrary, but should be the result of a just and wise modification of the natural rights of men, as these constitute the only true basis of the very right to prescribe and enforce such rules; for here is the enquiry, not what the municipal laws have introduced, but whether the determinations thereof are founded in nature.

Sch. 4.—We need only to attend to the use of the institution of property, as laid down by a certain author on morality, in order to be convinced that even the natural law, which commands both the individual and the public happiness of mankind, furnishes a foundation for all the wise and beneficial regulations which civil laws have adopted for the conduct of society. According to him

1. Property increases the produce of the earth.
2. It preserves the produce of the earth to maturity.
3. It prevents contests.
4. It improves the conveniency of living, and encourages industry, the arts, agriculture and commerce; it meliorates the condition of mankind in general.

Vide Paley's Mor. Phil. Book iii. Part 1. ch. 2.

Things in general may be distinguished either into property or commonry, or things which belong to no person. In the two former kinds, certain persons have an exclusive right of disposal; but such a right

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finds no place with respect to the last, unless some act or deed take place, from which an exclusive right may result; that is to say, from which may be understood why the agent should have a right to dispose of such a thing rather than another.

In order, therefore, to prove that we have acquired a right in any thing, we must in the first place make it appear, that we have performed a certain lawful action towards appropriating it to our own use, and, secondly, shew, that the action thus performed contains a sufficient cause why we should have it for our own, exclusive of others.

Actions thus performed are stiled *modes of acquisition*; and if such an action contains a sufficient cause of an appropriation thereby made, it is said to rest upon a *good title*.

Hence it follows, that without a lawful mode of acquisition and a just title, no right in things can be lawfully acquired.

Sch. 1.—A robber forcibly against my will and with my knowledge appropriates my money; but he has no right of property or of use in it, because the mode of acquisition is unlawful—his title is unjust.

Sch. 2.—I buy an estate, which is encumbered by a mortgage or a judgment, give my money for it, have regular conveyances made; the mode of acquisition is lawful, but the title is unjust, for my purchase and payment contain not a sufficient cause why I should rather dispose of the estate than those who had an interest in it before my purchase.

Sch. 3.—The proof of our right in things rests upon syllogistic argumentation; as,

He who has performed such an action has acquired a right in such a particular thing.

The person N. N. has performed that action;

Therefore N. N. has a right in that thing.

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The first and only originary mode of acquiring rights in things is by way of *occupancy*, by which we understand the seizing a thing belonging to no body, with an intention to appropriate it for our own use. Three things, therefore, are requisite for constituting a title by occupancy: First, that the thing which is the object thereof belong to no body; secondly, that the occupier have the intention of appropriating it to his own use; thirdly, that in consequence of such intention he actually takes it into possession.

If one occupies a thing belonging to no person, he thereby commits no injury; the action is consequently lawful: and as it is conceivable from that very action why the occupier should dispose of the object of his occupancy rather than others, who either were ignorant of or unconcerned about it, the occupier has a just title for his appropriation.

Occupancy, therefore, is at once a just mode of acquisition, and a just title.

Sch.—Since God, by creation and preservation, is the Sovereign Lord of the whole Universe, it is evident, that the originary right of occupancy has only reference to our fellow-creatures; but if respect be had to God, he has the originary right, and occupancy, by certain acts of men, is of a derivative nature.

Things are said to be *relinquished*, when the occupier gives up his intention of having property therein, and, in consequence thereof, quits the possession; property, thus relinquished, returns to the original stock of things belonging to no body, and of consequence becomes the property of the first occupant.

But it is not so in things which *lie waste*, that is, such as are not preserved or kept as things of that nature

nature require; for here is a defect with respect to possession, but the owner has not given up his intention. Things lying waste continue, therefore, to be property, and may not be occupied.

Sch.—A plough in the field, a waggon in a wood, where the owner is accustomed to fetch his fuel, a bee-hive in a yard, &c. do not lie waste; for things of that nature must be kept in such a manner: but the owner's coat lies waste when it is in the field, his axe when that lies in the woods, the bee-hive when it is placed in the midst of a high-way, &c.

Neither can occupancy take place in things found which were *lost*; that is, whereof the owner has accidentally and against his will ceased to preserve his possession, for he retains the intention. Things found must, therefore, be restored to the owner if he can be known: consequently, no finder has a right to use any thing that is found, except it be of such a nature as to become worse by not using, or as the owner would suffer detriment thereby; for instance, provision liable to spoil, a horse that should have strayed, and the keeping of which would incur the owner a high expence: even in cases like these the finder is held to make reasonable compensation for his use.

Sch. 1.—Things, of which no owner is or can be found, are deemed to belong to no person; the finder consequently becomes the occupant until the owner prove and reclaim property.

Sch. 2.—It is therefore necessary that a finder of property endeavour to investigate its owner, by giving sufficient public notice that such property is in his possession.

Sch. 3.—In some cases it is very difficult for the lawful owner to distinguish his property; as, coins of the same value and impression. Here the time when and the place where things are lost, with other concomitant circumstances, may serve to ascertain the owner.

Sch.

Sch. 4.—If things found and kept in use by the finder should have an increase whilst they are in his possession, a question arises, whether the owner or the finder has a right to that increase; for instance, a colt or a calf of a strayed mare or cow.

The decision of this question depends upon the care and trouble which the finder has had in the raising of that increase, as well as upon an enquiry whether he has done what he ought to have done in order to discover the owner.

Things admit of an increase: an increase attending our property is called an *accession*: as accession may result from the nature of our property, or from our industry, or from both alike, it may be distinguished into *natural*, into that which is *acquired by our industry*, or into that which partakes of both, and may be called *mixt*.

Sch. 1.—To natural accession may be referred the increase of cattle, of land gradually produced by the overflowing of a river, a sea or a bay, constituting the limits thereof.

Sch. 2.—The second kind of accession comprehends improvements of land, clearing, fencing, manuring, building, hunting, fishing, &c.

Sch. 3.—Under the head of mixt accession may be brought planting, sowing, engrafting, &c.

When an accession to property is the natural effect thereof, it is evident that the owner of the property is entitled to the accession; as, for instance, the young of animals, &c.

If, by an event in nature, another's property accedes to our's, so that the former can be distinguished and precisely known, the accession, or as much thereof as may be thus distinguished, remains the property of the first proprietor; as, when a river has suddenly formed a new channel.

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But if the accession be gradual, a bank of our property enlarged, or an island formed so that the particles cannot be known, and consequently not claimed as the property of others; such enlargement or island must be considered as belonging to no person; and the owner of the bank to which the accession is made, or contiguous to which the island is formed, is deemed to have the best title to the accession, because he has the best opportunity for occupancy.

Sch.—Things of this nature are under particular regulations, provided for by civil and national laws, as they now-a-days chiefly interest the claims of territory and the jurisdiction of states and nations.

With respect to accession by industry, we distinguish these two cases: the one, where the thing acceded to is the property another; the second, where no other has a right in the accession. In the first of these cases there cannot be any room for making an acquisition of the accession, because there is no room for occupancy: in the last, the person producing the increase is by that very act the occupant and the owner thereof.

But an accession may take place by our industry on another's property. Here we must distinguish two cases, for that accession may either exist by itself, within or upon said property, or is intermixed therewith. In the first of these cases accession is said to be by *adjunction*; in the latter it is either *specification* or *commixion*, as we give another's property a new form or shape, or unite and intermix with it things of a distinct quality.

Sch. I.—Accession by adjunction comprehends buildings and all other improvements which may be taken away without injuring the soil or property.

Sch.

Sch. 2.—That by specification has reference to orchards, ingrafting, walling up banks, &c. Here improvements cannot be taken away without injuring the property.

Sch. 3.—Commixion may be instanced in manuring, &c. where the improvements are so intermixed that they cannot be taken away without injuring the property.

As by the natural laws the improver is entitled to the accession produced by adjunction, so the proprietor of the soil, according to those laws, becomes the owner of it by specification and commixion.

Sch.—Prudence dictates on the one hand, that the improver provide for indemnification before he bestows his industry upon another's property; justice requires on the other, that, if such improvements have been made, the proprietor make a reasonable satisfaction.

CHAPTER III.

Of those derivative modes of acquisition which may take effect during the life of the owner.

ALL rights in things which are held in property or commonry, must be derived from particular acts on the part of the owners, from which it may appear why another should now dispose of them rather than they themselves.

Since there cannot be another mode naturally lawful by which we may dispose of what is another's than by his will and consent, or where the law of reparation entitles us to so much of our neighbour's possessions as is sufficient to make good damages sustained, or where the withholding of such things would create a damage, and of consequence give us that right,

right; it follows, that there are different kinds of derivative modes of acquiring rights in the property of others.

The mode of *acquisition by will and consent* of the owner, is by pacts of one kind or another.

With respect to the mode of acquisition by the law of reparation, we distinguish damage which has actually taken place from that which would take place in case of refusal: the former of these modes we call the mode of acquisition by *forfeiture*; the latter, that by *law*.

When pacts are *consummated*, that is to say, when in unilateral pacts the promise is performed on one side, and when in the bilateral both parties have fulfilled their engagements, then, as has been shewn in its place, actual transfer is made by the promiser to the promisee. The different pacts, therefore, by which a transfer may be made of our own, are as many modes of derivative acquisitions whereby another may obtain a lawful right in our property.

But there are two general kinds of pacts; the unilateral, where the promiser acts without expectation of receiving any thing in return, and the bilateral, where each party is held to perform. As the former comprehends all the species of *gratuitous* pacts, so the latter implies all those which are reciprocal or *onerous*.

To the gratuitous modes of acquisition are reckoned gifts, grants, last will and testament. Between the two former there is this difference, that gift is a gratuitous pact without even the mention of any expectation or consideration being made in return; but grant is a gift without the outward appearance thereof,

as a consideration is expressed, which, however, is not taken or demanded; for instance, a pepper-corn, five shillings, &c.

Sch. 1.—Of wills and testaments, and other gratuitous devices of a deceased person, we shall treat in a particular chapter.

Sch. 2.—Reciprocal or onerous pacts are more generally known under the appellation of contracts.

Sch. 3.—Gifts and grants, which latter have the outward form of contracts, are naturally as binding as any contract may be; but civil laws, for the purpose of preventing frauds, by which others, creditors for instance, may be injured, do not allow to them that obligatory power in the civil forum which contracts have, that is, where a consideration is given.

Sch. 4.—Among those considerations which are esteemed as valuable, the municipal laws admit that of blood or natural affection between near relations, provided no person is thereby injured.

Contracts, that is to say, reciprocal pacts, become as many modes of acquisition as there may be transfers of rights in things made in the different forms of onerous pacts, of which we have treated under the head of pacts.

Thus the form *do ut des* comprehends all contracts where money is given for money, property for property, goods for goods; as, money loaned upon bond or promise of payment, barter or exchange either of money, property or goods, and all sales of goods for a price expressly stipulated or implied, where the buyer tacitly consents to give as much as they are worth.

The form *facio ut des* has reference to contracts where work is performed for a certain price, either specifically mentioned or left to the determination of the law; as, a servant hiring himself to a master for

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certain wages, or a labourer or tradesman engaging to work for the current wages, or for a compensation for a piece of workmanship, &c.

The form *do ut facias* has respect to contracts where the master hires his servant, the landlord employs a labourer, or engages a piece of workmanship with a mechanic, &c.

The form *facio ut facias* extends to contracts where I engage with a man to do his work if he will do mine; or where two persons agree to enter the matrimonial state, or to perform certain acts on both sides; or it may be that one forbear on one side if something is done on the other in consideration of that forbearance; as, a landlord giving up his rent upon condition that the tenant inclose a field with a good fence; or it may be for mutual forbearance on both sides; as, one merchant engages not to trade to Lisbon if the other will not trade to Marseilles. *Vide Black. Comment. Book ii. chap. 30.*

Sch. 1.—Besides these modes of acquiring property, there are others arising from the same principles, which have reference to a transfer of the rights of use and usufruct; as, giving in trust, hiring, lending, borrowing, &c.

Sch. 2.—Authors who have treated these subjects in detail distinguish contracts into those of *sale*, of *hazard*, and of *lending* either inconsumable property or money, and of *labour* by service, commissions, partnership, or offices.

Sch. 3.—Indeed, all manner of trusts, securities, pledges, pawns, mortgages, bonds, promissory notes, and the different kinds of indentures, rest upon the principles of pact, and import pactitious rights and obligations.

As we do not intend to treat of these subjects in detail, it may suffice to observe, that the determination of what is right or wrong in the transfer of property,
or

or of use and usufruct, in the natural forum, rests upon the essential requisites of pacts, which have been explained in a preceding chapter.

It therefore deserves our particular attention, whether a pretended contract is founded in a lawful promise, consent, acceptance and transfer, or whether each of them is accomplished in its proper meaning and intention, without any ambiguity or prevarication: for a contract defective with respect to one or the other of those requisites is void; and the contracting parties of a just contract act perfidiously towards each other if they do not fulfil every stipulation in its true sense and meaning.

Sch.—The municipal laws of different countries have introduced into this subject different and various modifications, which have respect both to the publicity and the necessary evidence which must attend the various transactions of a pactitious nature, in order to give them legal validity, and to obviate fraud, litigation and confusion: for instance; a bond must be signed, sealed and delivered in the presence of two witnesses, a last will and testament in the presence of three, &c.

A right to compel an owner to transfer so much of his right in things as is necessary to repair a damage done by him, is called *the right of forfeiture*.

The right of forfeiture, if conducted according to the dictates of natural law, is consequently a just mode of acquisition, and extends to the right of making seizures.

The right of forfeiture by seizure, where it is exercised by public authority for the benefit of a citizen who has sustained such damage, is called *execution*, which is always to be preceded by a judgment. But when civil government has sustained a damage, and
seizes

seizes for the use of the public, then the right of forfeiture is stiled that of *confiscation*.

There is another mode of acquisition *derived from law*, by which we may claim as much right in another's property or person, as is sufficient to compensate for the expence or trouble to which we have been put by his necessary support, or by other exigencies in his behalf. This mode is distinguished from that of forfeiture in this particular, that the latter presupposes injury and damages actually committed, whereas the former leads to something which is to be done, to wit, compensation to be made, lest an injury and damage might ensue.

The mode by which we may lawfully demand, retain or seize so much of our neighbour's property, or, in default thereof, of his personal services, is called *acquisition by law*, as this supplies us with forcible remedies in cases where just compensation is refused; for instance, where children are brought up by their parents, where minors depend for support and education upon provision made by their guardians, or where poor and fatherless children are taken into families. Parents are by law entitled to the services of their children, independent of the duty of gratitude, which should most principally prompt them to all manner of respect and obedience: guardians have a claim upon the property, and, in default thereof, upon the services of their wards: those who have bestowed their substance to bring up the indigent and fatherless, have the claim of natural parents.

Civil laws mention a mode of acquisition, which rests solely on what is called immemorial possession, that is, a specified number of years: these years laws take for a time immemorial, because it is deemed impracticable

licable to prove a right in things, after such a number of years, with that precision which laws, and indeed the peace of society, require. This mode is called the *right of prescription*, and is variously determined in reference to the different objects which may thereby be claimed; but in the forum of nature it might be considered as the finder's right, in things found of which the owner does not appear, or cannot prove his right, rather than a distinct natural mode of acquisition.

CHAPTER IV.

The derivative modes of acquisition of rights in things by will and testament, and by administration, or inheritance ab intestato.

AMONG the natural rights of making disposition of the substance and emoluments of things, we have taken notice of the right of alienation, which vests the right of property, of possession and other uses, in persons after the owner's decease.

Such a disposition, made by the owner in his lifetime, must be considered as an unilateral and beneficent pact, where consent and acceptance are constructive, and where death stamps the unalterable consent of the promiser upon that presupposed acceptance of the promisee, and thus gives the pact its full validity.

He who makes such a disposition of his property is called a *testator*; the property itself is stiled an *inheritance*; the person who is designated as the new owner thereof has obtained the appellation of an *heir*: the whole

whole transaction taken together is called a testator's *last will and testament*.

Sch.—Those who treat on this subject in detail make a difference between will and testament, confining the former to the disposition of personal, and restricting the latter to that of real estate.

Since will and testament must be considered as an unilateral and purely beneficent pact, where consent and acceptance, though supposed, cannot take place before the testator's decease, it is evident, that wills and testaments may be altered or revoked as long as the testator lives, but obtain their consummation, and consequently become irrevocable at the moment of his death.

It being the nature of love, that we wish to render those for whom we have a particular affection as happy as possible, it follows, that a testator, designing the inheritance to a particular person or persons, declares thereby that he loves such a person or persons in a particular manner above others.

It is therefore as equitable as it is congruous to the nature of things, that the laws of the land direct the inheritance of one who dies intestate, to fall to such person or persons whom he ought to have loved before others.

Those who, by this construction of natural and those civil laws which take nature for their guide, become vested with the inheritance, are *heirs ab intestato*, *heirs at law*. The disposition, as it proceeds from law, is called *legitimate*, whilst that which depends upon the will of the testator is stiled *testamentary*.

Since an heir succeeds to the rights of the former owner, it follows, that he comes under his obligations, as far as he is heir; an heir must, therefore, fulfil the engagements

engagements of the deceased, as far as he is enabled by the inheritance, and not farther.

Succession, *ab intestato*, conformably to the law of nature, is to be considered in this manner: *if no declaration of the last will of the deceased can be produced, or, which amounts to the same, is not authenticated, he or they will be entitled to the inheritance whom the deceased was bound by nature to love particularly above others*; for it is a well established maxim in morality, that what is natural must be presumed until the contrary is proved.

From these and other principles it is therefore evident, that wife and children, and after them the nearest relations, and among these first the lineal, and then the collateral, and in default of each of them the country of the deceased, or rather the place wherein the inheritance lies, have a legitimate claim to the inheritance.

Sch.—The laws of our state follow these principles with great exactness, and allow the widow in some cases the third part, in others the half of an inheritance: the former takes place where children are left by the deceased; after the portion allowed to the widow, the children are to divide the remainder in equal shares.

A last will and testament is then necessary, if a person intends another division of his property than that which the law directs, or wishes others to be his heirs than those which are heirs at law.

No last will is therefore entitled to any notice, which is not solemnly declared as such by the testator, and sufficiently proved by witnesses; because, nothing that is vague or uncertain can have force to set aside directions expressly prescribed by law.

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Sch.—This, perhaps, has been the cause why the Justinian law requires, that, besides the seven witnesses necessary for the proof of a will, the testator should expressly mention the heirs at law, and leave to each a certain proportion, as what is called their *legitimate*, with this proviso, that without a strict attention to the latter, the will shall not be valid.

By the solemnities of a last will and testament, besides those things which serve expressly to declare the testator's intention with respect to the disposition of his property after his decease, are understood such external acts as are sufficient to prove that such a declaration was really made.

Those solemnities which declare the testator's intention, we call *internal*; but such as serve as proofs of the declaration thereof, are *external*.

A last will and testament, if it be consistent with itself, that is, not contradictory or unintelligible, has the internal solemnities requisite for an act of so great importance: the testator, when he declared his will, must have been of sound mind and memory, and the disposition free and of his own accord.

There are also external solemnities requisite, to wit, a sufficient testimony of witnesses, who can prove, in a satisfactory manner, that the testator was in a state of ability to make a valid disposition, and that the disposition made or proffered has been declared by him to be his last will and testament.

Sch.—Those who think that, in the internal forum, the handwriting of a testator would be a sufficient proof of his last will and testament, do not consider, that from a person's hand it cannot be proved that he acted freely and of his own accord, that fear or force had no interference, &c.

The municipal laws of different countries have variously determined, both with respect to heirs at law,
and

and to the number of witnesses necessary to give a last will and testament sufficient authenticity.

Our laws require *at least three* witnesses present when the testator acknowledges the seal affixed to the instrument containing his will, and signs his name thereunto, with the explicit declaration, that the contents of the instrument thus signed and sealed are his last will and testament: they also order, that the witnesses sign their names as witnesses present when these transactions have been performed by the testator.

Sch. 1.—The witnesses must all be present at the same time; each must see not only the testator, but also the other witnesses sign their names or affix their marks.

Sch. 2.—If failure be made in any of these solemnities, the will is set aside, and the laws of the land order administration to take place.

Nuncupative wills, that is, such as are declared by word and mouth, are not admitted by law, except in very extraordinary cases; for instance, when persons are at sea, foldiers in the army, &c.

If a person who would have been heir at law is by will excluded from a portion of the inheritance, he is said to be *disinherited*.

A person constituted heir may remit his right before he enters upon the exercise thereof; but having once assumed that right, he is, as far as the inheritance extends, under all the obligations of the deceased: he must, for instance, pay all lawful debts, because nothing can be considered as the inheritance but what remains over and above all just demands.



P A R T II.

Sect. III. *Comprehending general æconomy.*

CHAPTER I.

Of rights in persons.

SINCE, as has already been shewn, duties, obligations and rights are of a correlate nature, so that the latter depend upon the former as effects upon their causes, it evidently follows, that we cannot lawfully have or claim any rights in persons which are inconsistent with our duties towards God, towards ourselves and fellow creatures: for any action whatever that is contradictory to either of these duties, is repugnant to our natural obligation, contrary to the dictates of natural law, and consequently wrong, impious, unnatural and unjust.

The following maxims, which may be considered as the infallible criteria of right or wrong in the social intercourse of mankind, of whatever description or extent it may be, flow from these undeniable principles:—

1. No person can have a strict right of property in another; for no man can cease to be a moral agent, but, as such, is under the dominion of God, and responsible to him for all his actions: being essentially different from brutes and things inanimate, he cannot, consistently

consistently with his nature, become an object of property.

Sch.—It is unnatural and impious to deal in human flesh, to treat man as a beast of burden, or to hold him in equal or in lower estimation than things of an inanimate nature; for it is inconsistent with the duties we owe to God, to ourselves and to others.

2. Rights in persons can only amount to the right of directing their actions; for such a right only is consistent with the nature of a moral agent, and with that natural relation by which mankind are dependent upon each other for mutual happiness.

Sch.—A right in persons extended farther than to the direction of the actions of others consistent with the nature of a moral agent, would amount to a strict right of property—a right which has just been proved to be as unnatural and inhuman on the part of the claimant, as it would be degrading and disgraceful to the subject of such unnatural claim; with this difference, that, like the wolf and the lamb, the latter moves our sympathy, whilst the lawless usurper excites our disgust and indignation.

3. No person has an unlimited perfect right in another, so that he may arbitrarily direct his actions as he pleases; because, he who submits to such a right ceases to conduct himself consistently with the dignity of a being endowed with a moral nature; and the claimant deprives him of his unalienable natural right, with which he is vested as a member of the universal society of mankind.

4. No person may lawfully claim even a limited perfect right in others, except for lawful purposes; for a contrary conduct would be repugnant to the duties we owe to God, to ourselves and to others, and would consequently be impious, unnatural and unjust.

5. No

5. No person may lawfully have an absolute natural right, however limited, and however good the purposes may be; for what is absolutely natural, flows from nature considered in itself; and men, considered in themselves, have the same nature, and consequently can possess no perfect rights in one another, but such rights only and such claims as are in every respect equal.

6. Rights in persons must consequently be hypothetically natural, adventitious; that is to say, some acts are necessary, by which it may appear why persons of the same nature, members of the society of mankind, should have perfect rights in one another, and why some should have the right to direct the actions of others, whilst the latter are under perfect obligations to follow and obey those directions.

7. Rights in persons, therefore, which are *perfect* and *affirmative*, that is, by which we require, and in case of refusal compel, others to follow our directions, must result from a just mode of acquisition, and rest upon a just title.

Sch.—By nature, and without any previous act either on our part or on that of another, we have *negative perfect rights*, in all persons; for from our nature and from the nature of things it follows, that others should do us no injury or damage.

There is no originary mode of acquisition by occupancy; for, as man is not only endowed with moral agency, but is likewise a fellow member of the universal society of mankind, a fellow subject of the government of the Most High, he is under the dominion of God, and cannot be considered as a thing, much less a thing belonging to no person: he is naturally vested with a right in himself.

Since,

Since, then, all derivative modes of acquiring rights result from certain acts, we may distinguish three general modes by which rights in persons may be acquired, to wit, either by acts on the part of the claimant, or on that of the obligee, or both alike. In the first case, we acquire rights in others by the *title of law*; in the second, by that of *forfeiture*; in the last, by the *title of pact*.

Rights acquired in persons by the title of law, take place with parents in their children, with guardians in their wards, and indeed with any person who undertakes and is faithful in the performance of parental duties; for here the established order of nature, or rather the law and will of God direct, that persons bestow much care and labour upon others, whose very existence and happiness are made immediately dependent upon their faithful exertions. But the laws which impose duties grant likewise a right to all things necessary for the performance of those duties. The consequence is, that parents, and those who are under parental obligations, must not only have rights in children, but such rights must also be perfectly consistent with their duties to God, to themselves and to others. Parents have consequently perfect rights, not only to direct the actions of children in a manner which will comport with the glory of God and their own happiness, but likewise to require them to make compensation for the care, trouble and expence bestowed upon them.

Sch. 1.—Perfect rights, founded in justice, may be well exercised by parents; for it is perfectly consistent with the nature of children, that they should make, for benefits received in the days of helpless infancy, all possible compensation of their own accord, lest they heighten the injury

jury they commit in refusing obedience, by the most unnatural vice, that of ingratitude.

Sch. 2.—Neither is it incompatible with the state of infancy, that parents exercise perfect rights in directing their actions: these rights, however, undergo natural modifications, keeping pace with the improvement of their moral faculties.

Sch. 3.—A non-submission to the rights of parents, guardians, &c. by the title of law, renders the recusant liable to the right of forfeiture.

By the right in persons, in virtue of the title of forfeiture, acts which have caused injury and damage on the part of the obligee are presupposed. In defect of property by which reparation may be made, the injurer is held to make it by his labour.

Sch.—Such a right is both compatible with the principles of natural justice and with the nature of a moral agent: as the former requires that reparation be made, so the latter should feel inclined to make it as far as is in his power.

By the title of pact, acts on both sides are required; that is to say, as one intends to have a right in another, so the consent of each is required for such a claim to become lawful. The several species of pacts, therefore, whether explicit, tacit or constructive, heretofore explained, are modes of acquiring rights in persons, with this exception, that nothing can find place which is incompatible with the nature of a moral agent and the natural rights of man.

Having hitherto attended to the perfect affirmative rights in persons, under the appellation of rights in persons, it is proper that we speak of those imperfect rights which men, as fellow creatures, as fellow citizens of the government of the Most High, have in one another by virtue of their nature, and particularly by this their natural relation. These are not only negative,
but

but also affirmative, and may be claimed in all persons whatsoever; for, as by that natural relation men are bound by mutual obligations to promote the general happiness of mankind, so they have likewise mutual rights to require all those things which are necessary to be done for the attainment of that happiness. It would be impossible, on the one hand, to do our duties, if we had not a right in persons to expect and to require that they should act conformably to them. How should we be able to perform the duty of hospitality to a stranger, if we had not the right to recommend him? How should we be able to cultivate true friendship, if we had not the right to rebuke, to exhort, or to visit a friend? How could parents love their children, if they had not rights to advise, to reprimand, to chide, or to put them to some useful employment? We have a right, on the other hand, to expect for our friendly offices sincerity and gratitude from a friend. Parents have a right to require love, reverence, gratitude, obedience and assistance from their children.

Since our imperfect rights result from imperfect obligations, it is plain, that as these are stronger, the more intimate our natural relations are; so, likewise, our rights in persons become more forcible the nearer the relation is in which we stand towards them. Thus parents have the strictest possible right in the persons of their children; nothing, therefore, can be more impious and horrid than disobedience and ingratitude in children to their parents,

CHAPTER II.

Of the general laws of society.

BY *society*, in the strict sense of the term, we understand that state in which a person has a perfect affirmative right in others: the persons living in this perfect *social state* are *members*.

Sch.—As there are many societies among the children of men which rest upon imperfect rights and obligations, and admit only of a directory government, so that they are quite of another nature than those which result from perfect affirmative rights; it is proper that the reader be apprised, that what is said in the sequel with respect to social rights and obligations, is only applicable to societies which rest upon perfect rights and result from perfect obligations.

Since there are not only a variety of actions, but also many and different ends to which they may be directed; since, likewise, directions may be instituted and conducted by various means, and under different modifications, with respect to time, place, the immediate object and individual circumstances; it follows, that there are a variety of societies possible, which either differ in kind, or only in some other qualities.

All societies which have for their object the same end, are *materially the same*, that is, *societies of the same kind*; but such as have for their object different ends, are *materially different*, or *societies of different kinds*.

Societies of the same kind may differ with respect to other qualities; as, for instance, the different governments on earth—the various charitable and politi-

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cal societies now in vogue—the different professions of religion, &c.

As species are contained in kinds, so one general society may contain many specific, and these again various individual societies. There are, therefore, not only many and various social states possible among men, but individuals may also be members of several and different societies.

Since perfect affirmative rights must necessarily stand in a natural correlation with perfect affirmative obligations, it follows, that two parties must be distinguished in a society, to wit, one vested with a right, the other under a perfect obligation to act conformably to that right.

Since rights in persons cannot be lawfully claimed without a proper mode of acquisition and a just title, it follows, that all reciprocal claims of a perfect nature which persons make upon one another, not founded in the right of acquisition by law, forfeiture or pact, are tyrannical and repugnant to natural law, under whatever specious name such claims may be made.

Associations, likewise, which are formed for unlawful ends, deserve not the name of societies, but that of lawless combinations, of banditti, of nuisances and pests of society; disgraceful as they are dangerous and detestable.

A society becomes *despotic*, if the claimant of the social right extends it to all that the obligee possesses; but, if the latter has something left to himself, independent of the social right on the part of the claimant or any other member, it is *limited*.

Sch.—In limited societies there are reciprocal rights and obligations on both sides.

A despotic

A despotic society, whether we consider it with respect to institution or execution, is as inhuman as it is irrational and unnatural; for here the obligee is considered not as a moral agent, but as a brute or thing of an inanimate nature.

Sch. 1.—Such shameful despotism is to be met with in the governments of the eastern parts of the globe, especially in the treatment of the female sex. Of that nature was the barbarous right allowed to parents to expose or put to death their children. The state wherein persons are deprived of all their rights, is a state of *slavery*.

Sch. 2.—In that abject miserable state captives in war were held by the Greeks and Romans of old, who looked upon themselves as exclusively entitled to the honour of civilization and humanity, calling all others barbarians.

Sch. 3.—Though among civilized nations the right over the death and life of slaves is taken out of the hands of private persons, yet slavery itself, where persons may be dealt with in all other respects as brutes, does not cease to be inhuman, unnatural and disgraceful to mankind.

Sch. 4.—How far the right of forfeiture may reduce a moral agent, is a question which, to the honour of humanity, has of late been much agitated among the learned of different nations. That men who have, by an abandoned conduct of life, voluntarily debased themselves, should be justly considered as nuisances and pests of society, and confined or put to hard labour until they have expiated their crimes and made reparation, is perfectly consonant to reason and the principles of natural law: but in justifying the right of taking away their lives, reason is as much at a loss as philanthropy and humanity, since the violent death of such wretches can neither be considered as an atonement to the public, nor to those individuals who have become the objects of their lawless excesses.

Sch. 5.—Capital punishments in many instances prevent the possibility of reparation, and in this respect are far from being naturally lawful.

Sch. 6.—If the argument drawn from the force of the victims becoming proper examples for deterring others from wanton transgressions of the law, be brought into contrast with

with the experience of ages, it proves, that human immolations at the shrine of justice should either cease or become less frequent.

Sch. 7.—Be it remembered, that government can have no rights but such as are delegated, and that the individuals of a society cannot delegate more than they have: if, therefore, a society is not in a state of absolute or extreme necessity, which can hardly be the case in a well regulated government, there is no cause for extending the right of self-preservation to life and limb: nay, since even a state of necessity, with respect to individuals, does not justify the taking away of life, if the duty of self-preservation may be otherwise satisfied, it appears very plain, that capital punishments in many instances contradict the principles of natural laws.

Sch. 8.—It is even questionable, whether taking away the life of a criminal in the case of murder is in itself conformable to natural law; or whether it should not rather be ranked among those positive laws which derive their force, with respect to particular circumstances, from the law of self-preservation, upon which all right of life and death ultimately depends. It is upon the strength of this law that we may account for the words, *Whoever sheddeth man's blood, by man shall his blood be shed*, as well as for other crimes made capital when Israel was in the wilderness; whilst the death of Abel, of Uriah, &c. was suffered to go unrevenged, no capital punishments having been inflicted upon those who were guilty of taking away the lives of these innocent persons. It is on the same account that martial laws, in times of invasion and in the field, may be put into execution with more rigour than would be justifiable in any other situation of public affairs.

Let us therefore conclude, that murder and other enormous crimes militating against the law of self-preservation, may lawfully be punished with death, when this great duty cannot be satisfied by punishments less rigorous. Let it be remembered, that we cannot have rights inconsistent with the duties which we owe to God, to ourselves and to others, and that cases of collision call for prudent, just and equitable exceptions.

In a despotical society, the paradoxical maxim can only

only be applied, that a human being *can do no wrong*; for that society leaves no right in the other party: but as limited societies alone are recognized by the infallible principles of nature, it is in them that either or both parties may do wrong. The members of a society may injure one another, either when the claimant of the social right extends it farther than he ought to do, or when the social obligee falls short in the performance of his obligation.

To an attentive observer of persons and things it is obvious, that from the intricacy of human concerns, and from the various affections of the human heart, arising from the imperfection and imbecility of our nature, innumerable feuds and animosities must necessarily take place amongst members of society, if the just proportion of social right and obligation should rest upon the assertions and arbitrary claims of the parties—claims often as whimsical as they are selfish and unjust.

It is, therefore, for the happiness of mankind, that in this respect we have nature for our guide; that is to say, principles resulting from the nature of just societies, as infallible as nature itself. The very essence of society is the scope and end for which it is instituted: this end, therefore, is the true criterion of what is right or wrong in the conduct of members.

The end of societies we call the *common good*; because, as no society is naturally lawful which has not a good for its object, so it is absolutely requisite, that that good be common; that is, the members must in some manner or other be interested in it; for, if the contrary should be the case, the society would be despotic, unnatural and unlawful.

Whenever

Whenever the claimant of the social right extends his claim farther than is consistent with the common good, he injures the social obligee: when, on the other hand, the latter does not perform all his obligations to such an extent and in such a manner as the common good requires, he injures the former: in either case, the end of the society is frustrated, and the members respectively incur the guilt of perfidy.

Sch.—The position, that all lawful societies must have a common good for their object, holds good even in cases where persons, on account of injuries and damages committed by them, are deprived of their liberty and put to hard labour; because they enjoy as much right as their state of guilt admits of, and have this interest in that state of servitude and constraint, that they make that reparation which the natural laws in such cases require.

There is such a thing as *social morality* or *immorality*; for, in all manner of societies, that is just, right and beneficial which comports with the common good: that, on the other hand, which is repugnant thereto, is unjust, wrong and evil.

This leads us to the *universal social law* contained in this proposition; *Direct your actions so that the common good of the society be attained, preserved and promoted, and carefully avoid the contrary.*

This law binds both the claimant of the social right and the social obligee: all actions of the members of society among one another, which comport with this law, are just, right and good; all, on the other hand, that is contradictory thereto, is unjust, wrong and evil.

Since obligations for certain ends imply the performance of all those duties which are necessary for the attainment of those ends, it follows, that the members of a society are bound to perform all those social duties which

which are necessary for the attainment of the common good thereof. Hence it likewise follows, that the claimant of the social right may lawfully extend his claim to all such actions as are absolutely necessary for the attainment and preservation of the common good of the society.

Sch.—Of the importance of this natural connection between ends and means we have already spoken, and shewn the necessity of a careful distinction between necessary ends and such as may be otherwise. *Vide* page 33.

Those actions, rights and things which members of society enjoy independent of their social character, and which they may consequently direct to their own advantage, constitute what is called their *private good*.

The private good of the members of society may concern their temporal or their eternal felicity: since the latter is a good which man, as a rational creature, cannot on any account sacrifice, so no society can lawfully require that sacrifice under any circumstances whatever. But temporal private good may come into a collision with the common good of the society; and in case of such a collision, it is a social duty to prefer the common interest to our private ease and convenience.

Amongst the many things which require the most careful attention, and which must be considered as the essential ingredients of the common good of society, are liberty and internal and external security: for, without the first, members have no interest in the common good of the society, at least not as much as they ought to have, and the society becomes more or less despotical and unjust: without internal and external security, individuals, nay, perhaps the whole society is in a state
of

of fear, which is one of its most unhappy situations, except that of intestine war and invasion from without.

In society the natural liberty of members must be restrained; for, without such a restraint they may not only injure one another, but also others not belonging to their body; and the consequence would be, that the society could neither be internally nor externally secure.

It is therefore a social duty, that no member injure a fellow member or any other person, lest the security of the society be thereby disturbed or endangered.

Societies, with respect to the acquisition of rights, may be distinguished into *necessary* or *voluntary*: the former result from the titles of law and of forfeiture; the latter from pact and mutual consent.

There is another important distinction, which has reference to the social obligation; for this may arise from the nature of the society, or depend upon the claim of the person vested with the social right. In the former case, societies are said to be *equal*; in the latter they are *unequal*.

Unequal societies are unnatural, and are therefore, in the forum of nature, unlawful and despotical.

In equal societies, many and great inequalities may take place in many respects, because the nature of such societies requires or admits of them. There must be members who exercise particular rights, whilst others are under corresponding obligations; for without such a subordination the end of society cannot be obtained, or that order and harmony preserved which are so essentially necessary for the preservation of the society and the happiness of its members. As in this respect a difference must take place, resulting from the nature of the

the society, so members may be differently situated with respect to their private interests: with these, as has been explained, the common good does not interfere; but, in cases of collision, requires the united exertions of the members, according to their several abilities.

The principle of equality, therefore, so much the object of controversy at this day, if well understood, is far from that levelling system which saps the foundation of all order and subordination in society, and lays prostrate all right of lawful pre-eminence and property. There must be rulers in society, and there must and will be a difference among men, with respect to talents, industry and possessions: but let the rulers derive their right from the nature of the society, and let this right be exercised for the common good thereof; let the wise and the virtuous be preferred to the administration of the society, as they are both able and willing to study its advancement and prosperity; let the poor rest contented under the care and protection of the society, and cheerfully contribute for the support of the common good, whilst those who are more wealthy assist in proportion to their possessions.

A right to dispose of the actions of the members of society, for the attainment of the common good thereof, is called *government*: persons administering government are said to be in *authority*: those members of society who are in authority are known by the name of *rulers*, whilst such as are under that authority are called *the ruled*.

Since the actions of moral agents are to be directed by motives, and as a connection of motives constitutes moral obligations, it follows, that rulers have a right

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to prescribe to the members of a society such rules as may import their social obligations; that is to say, each government is invested with the natural right of enacting, promulging and putting into execution laws for the conduct of the members of society, and these are bound to conduct themselves conformably to those laws.

Laws which are naturally entitled to the obedience of the ruled, must be consistent with and have for their end the common good of society; for it is for this purpose only that government is vested with legislative rights. If the contrary should take place, obligations would be constituted which result not from the nature of society, but depend upon arbitrary disposal;—the society would become unequal and despotical.

The determination, whether laws are consistent with the common good of the society, cannot rest upon the opinion of the rulers, nor upon that of particular persons amongst the ruled; for in the former case, the social obligation would rest with the claimants of the social right; in the latter the social right would be made dependent upon the social obligee, who might have a private interest to bias his judgment to the prejudice of the rulers as well as of the common good of the whole society. In both these cases obligations would be constituted which do not flow from the nature of the society; and the consequence would be, that the society would cease to be equal and lawful.

The nature of equal and limited societies is, that they have for their end a common good. But a good is common if all or the greater part of the members are interested in it. The determination, therefore, whether laws are for the benefit of the society or of a contrary

trary tendency, rests with all the members, or, where the consent of all cannot be obtained, with the majority: for in either of these cases the social duty is preserved by which members are bound to prefer the common good to their private interest.

It is possible, and indeed frequently the case, that the majority of a society commit errors and mistakes, by approving and adopting what is detrimental thereto: but as they have their share in the evil consequences of their errors, so they have an opportunity of being soon convinced of them, and the remedy to find relief is in their own hands.

Laws of a society have therefore a binding force upon all its members, as long as a majority approve or acquiesce in them.

As long as societies are ruled by men, so long there is no security against a possibility of being burthened with unnecessary and grievous laws: the members of a society have therefore a natural right to watch the conduct of their rulers, to state their grievances, and to apply proper remedies for redress: the rulers are under natural obligations to grant redress as often as their measures militate against the common good.

Sch.—For further particulars on this subject see pages 31—34, and 48—50.

Societies become *subordinated*, when the common good of one is so modified as to become a suitable mean for obtaining the common good of another.

Those societies which arise from such a subordination are *compound*; and these again more or less *general*, as the subordination comprehends a greater or less number of individual societies.

Members

Members of a compound society must exercise their social rights, and perform their social obligations in such a manner and to such an extent as the common good of the more general society requires; for in respect of the latter, the social rights and obligations of the members of subordinated societies must be considered as their private good.

As, therefore, in each society private good must be dispensed with where it is found to be inconsistent with the common good, so the common good of subordinated societies must be dispensed with, as far as it is found to militate against the common good of the general society.

Sch.—The most general society is the civil. Civil societies are known by the names of states, nations, &c. In a state all societies and interests must be subordinate to public good; where that is not the case, the political paradox takes place, *imperium in imperio*, or *status in statu*.

The rule that the common good, in cases of collision, must be sacrificed to the more general, or what is commonly called the public weal, cannot extend to the spiritual good of societies; that is, their religious sentiments and modes of worship; except where these should actually endanger the welfare of society, and members on this account oppose the public good, so that no other remedy is left. In case therefore of necessity only, the society has a right to check the effects of such dangerous innovations.

Sch.—If a society holds it unlawful to make use of war or violent defence, the general society has a right to check the progress of such tenets, that they may not become general, if there be cause to fear that effect; but if such persons may otherwise contribute to the general defence, and there be not an absolute necessity for their actual service, it would be imprudent and improper to meddle with their tenets at all.

In all other respects well regulated societies require not a sacrifice of the liberty of conscience; for their primary scope is temporal felicity; that is, the highest possible degree of liberty, joined with both internal and external security: but for the enjoyment of the first, liberty of conscience is essentially necessary; and in well regulated communities salutary laws provide for the internal peace of society, which is generally very safe with respect to conscientious persons. As for the external security of society, experience has evinced that the number of those who have adopted tenets unfriendly to its effectual support in times of imminent danger, has been comparatively small at all times, so that its safety is by no means injured by exercising towards them all possible moderation.

The *ostensible*, or *public character* of a society, consists in the rulers thereof; for as long as a majority acquiesce in their proceedings, the approbation of the society is stamped on these proceedings, and the consequence is, that the rulers are held up as persons who are vested with the power of maintaining the rights of the society at large. Things, therefore, done or suffered by rulers in their social capacity, are deemed to be done or suffered by the society at large.

Hence it is that different societies injure one another, if the rulers of the one, either *directly* or *indirectly*, impede the rulers of the other in the pursuit or in the enjoyment of the common good of their own society: the former will be the case if the injury arises from the proceedings of the rulers; the latter when it is caused by acts of the members, with the knowledge, connivance or approbation of the government of their society: for in both these cases the rulers of the one
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are the moral cause of injuries committed against the rulers of the other society.

The government of a society may be injured in an *immediate* or in a *mediate* manner; the former if the direct or indirect injury is committed against the rulers; the latter if the one or the other has befallen an individual, so that he has been impeded in pursuing or enjoying the *common* good of his own society.

From these distinctions the following maxims may be inferred for determining what is injurious or otherwise between societies:

1. Injuries committed by the rulers of one society against the government of the other, are *ipso facto* *public*; that is to say, they concern the whole society.

2. Injuries committed by any member of a society against the government of another, become only public on the part of the former, if satisfaction is denied when required, the injurer countenanced or protected, or the act approved of, &c.

3. Injuries which members of one society commit against the members of another, become public if the injury concerns the public good, and if, representations being made by one government to the other, satisfaction is refused, and the injury thus countenanced.

4. A member injuring the rulers of the society of which he is a member, commits a public offence against the society at large.

Societies are bound by natural laws not to injure others either directly or indirectly, whether in a mediate or in an immediate manner; for by doing an injury, they give cause for violent defence and war, and endanger their own security.

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In times of common danger, the members of a society are perfectly bound to afford aid and assistance to one another, and make defence a common cause.

Social connections are destroyed when social obligations and rights cease: we may distinguish various ways in which either of these will be the case.

Death *puts an end* to social connections; mutual consent *dissolves* them; they become *extinct* if prohibited by law, or where their end is rendered impossible; they *expire* when the time is elapsed which was to determine their duration.

We conclude this chapter by observing, that social connections have no pretence to a longer continuance than the cause of their institution.

Sch.—Allegiance is a social duty as long as protection is afforded.

CHAPTER III.

Introduction to the relative duties of man, which flow from the constitution of the sexes.

ALL societies of a specific nature, which may take place among men, ultimately result from the same source and origin from which the various associations of all beings of an *animate nature* arise, to wit, from the natural constitution of the sexes, and that instinctive affection between them, which, accompanied by an insuperable desire and love of offspring, are designed by the Most High as means to preserve and continue in existence their respective species.

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The brute creation seem to have accomplished the design of Providence, when, following instinct and sense, by associations, for the most part periodical and promiscuous, they procreate offspring, bestowing on them that short-lived care and solicitude which the protection and preservation of their young require.

But, blessed be God, there is a vast difference with respect to human nature ; his providences towards the children of men are not only more extensive than this transitory life, but likewise infinitely more glorious. Man, besides the enjoyment of animal life, and the innumerable blessings it affords, is blessed with a moral, spiritual and immortal nature ; his destination is not confined to time or transitory enjoyments, but extends to permanent, lasting, nay, everlasting happiness. To be guided by instinct, to follow sense, to be satisfied with sensual gratifications, comports with the nature and is the condition of brutes. To subject them to reason, to use them in conformity to the will of the glorious Creator, and in consistency with the design for which they are given ; to seek real and everlasting happiness, by a conduct rational and conformable to the supreme law and will of God, is the duty of man—his glory—his prerogative.

The slave of passion sins both against God and himself ; those who submit to the incitements of instinct only, forget the high destination of nature, and are insensible of their awful responsibility to their God and Maker, for the use they make of all the faculties and gifts bestowed upon them : the least that can be said of such a conduct, is, that it degrades man to the classes of brutes, or perhaps sinks him below their condition.

Sch.—Here would be the place to speak of disgraceful connections, and of acts unnatural, which constitute crimes without a name; because too disgraceful to be supposed to obtain a place among the actions of men.

Should men be satisfied, that associations have the sanction of natural instinct? Ought they not, as moral agents, to look forward to the will of their Creator, and consider the consequences of their actions? Most certainly; so far from rendering himself a brute, man ought, before all other considerations, to enquire, Is it right? is it consistent with the dignity of a moral nature and with the will of God? is it lawful? Thus conducting himself he acts becoming the destination of a being, blessed with an immortal spirit, which cannot be satisfied by transitory gratifications and empty lusts, and ought therefore to seek for rational pleasures, lasting and permanent, calculated to advance that happiness which is the ultimate design of all the providences of the Deity towards men.

Since, then, God has implanted powerful instincts in human nature, rendering those associations eligible which he has ordered for the preservation of mankind, it certainly follows, both from the nature of man and his high destination, that he is under the most sacred obligations, neither blindly to follow nor wantonly to suppress, but rationally to controul the influence of them, by determined resolutions, taken from the weighty motives of piety, justice, humanity and decency, that they become not obstacles to the pursuit, but means for the attainment and advancement of human happiness.

Sch.—It is a just observation, that man differs not so much from brutes by reason as by religion. What avails it to have the former, and not to exercise it, or to reject its salutary counsels?

The most lively sense of duty should therefore impel man to improve those strong affections implanted in his nature into *habits of true love*, and a *lasting friendship*, founded in a sincere and indefatigable desire to promote, as much as possible, one another's happiness. Without such a moral union of will and affection, there cannot be stability in a common interest; happiness cannot subsist, and a connection of the sexes cannot be consistent with the general welfare of mankind or becoming the dignity of human nature; since the condition of the parties must be precarious and pitiful, and that of their offspring miserable, forsaken and destitute.

How long do children continue to be extremely tender, helpless and weak! and what would be their condition, if those who have been instrumental in their existence should withdraw their assistance for the protection and preservation of their lives?

How strong, on the other hand, is the affection, how nearly is the happiness of parents connected with that of their children! How great then the affliction, and how grievous the injury to a fellow parent, if one of the parties should withdraw his affection, and deprive what is his own flesh and blood of so necessary an assistance!

Hence it is evident, that connections which are not founded in true love, where persons have not formed one common interest with the design of promoting one another's happiness, where they continue not in a perpetual state of friendship necessary for their mutual comfort, as well as for the faithful performance of parental duties to children, who are generally the natural consequence of such associations, are unbecoming the rationality of human nature, contrary to the

the happiness of the parties as well as the children, and therefore utterly repugnant to the dictates of natural law, which requires of man that his principal duty should be to promote his own happiness and that of others, and carefully to avoid the contrary.

Sch.—Besides the powerful arguments, that God first made one man and one woman, and, since creation, has ordered things so, that the number of males and females should continue as nearly equal as possible, the necessity of one common interest and perpetual friendship between persons connected for their own happiness and for that of their children, is a strong argument against polygamy: the former shews the injustice thereby committed against the general rights of mankind; the latter evinces the sins which persons by such conduct commit against God, against themselves and their offspring.

It is delightful indeed to contemplate the ways of the wisdom of God in his government over the human race, for they are wisely distributed and full of mercy. Children receive their existence by powers which, according to the universal order of nature, are implanted in the constitutional frame of mankind: their support, and more especially their *education*, that is, all that concerns their felicity here and hereafter, is founded on natural affection, and chiefly on those principles of justice and equity which the wisdom of the Most High has planned, and which his finger has engraven on the hearts of men for the direction of their conduct and the promotion of their happiness.—Man is made dependent on his fellow creatures for the first dawn of life: the human race is linked together by ties of blood and ties of duties: all men labour under the same wants and infirmities, and, in conformity to the will of their common Father, are subject to the same laws for promoting their happiness and extending their benevolence

lence to one another, and especially to those who are related to us by blood and more strictly intrusted to our care.

Let those who have unluckily learned the art of contracting a callous insensibility to the dictates of reason, and who are even dead to the instinctive calls of nature, take example from the affectionate care and solicitude which brutes never fail to exert towards their young, as long as their condition requires protection and assistance: here they will see the horror of lawless, loose and promiscuous connections.

But let us draw a veil over human conversation not guided by religion, where a creature endowed with reason is deaf to the gentle voice of virtue, and turns an enemy to the delights of innocence and its concomitants, peace of mind and true happiness, the approbation of God and of men.—Let us behold the beautiful sight of persons who have given up all their worldly interests for their own mutual happiness and for that of their offspring, dwelling in unity, each endeavouring to prevent the other in all things which are consistent with virtue and with their common good. United by interest, they are not only one body, but one heart and one soul. Their affection rests upon virtuous love, which increases with every effort that is made to advance their mutual happiness. Behold their joint, unceasing endeavours, not only to protect, but to educate their children! how assiduous to fit them for the duties of life! how strenuous and incessant to do all in their power to qualify them for the promotion of their own felicity and that of others! It is both their wish and delight to cause their offspring to become good fathers, good citizens, blessed instruments
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for promoting the glory of their Maker and the felicity of mankind. It is said, *Nuptiæ* declare the father; but let it be observed, that it is the good education that realizes the declaration. What excellency is there in the name of a father or mother, if parents have been but instrumental in bringing children to light, since it is well known that the beasts of the forest do the same after their kind? Suppose such parents give their children the needful support, by doing so they can only exceed the dumb creature in the necessary length of time. It is altogether instinct with both, with this difference, that the effect of that instinct is more lasting on the part of man than on that of the brute; because it is God who has ordered it so, the natural weakness of children requiring that provision for their protection and preservation which even the degeneracy and wickedness of the human heart can seldom impair.

Sch. 1.—How cruel and unnatural, then, must be the conduct of those who can deny children their natural rights, and leave them destitute and unprovided for?

Sch. 2.—How detestable is fornication and adultery, if, besides the internal turpitude and a thousand other crimes consequent to them, this one is considered, that a parent denies his own flesh and blood, or leaves it to all the miseries of want, disgrace and shame?

Sch. 3.—We justly distinguish *parental* love from natural tenderness and fondness, since the former is guided by reason and directed in conformity to the precepts and prohibitions of natural law, whilst the latter degenerate into reprehensible neglect of duty, and cause more harm than despotic rudeness and severity. Love is true, if the happiness of children is its invariable object and pursuit. Of true parental love it may be justly said, that it is *strong as death*, lasting as life. It rises superior to all the pains, troubles, vexations and sufferings which the education of children requires from parents.

Parental

Parental duties are indeed exceedingly complicated, arduous and difficult; but, behold the merciful providences of the Most High! they are not only made tolerable, but pleasant, sweet and delightful! It is a great gratification to parents, that they can render the state of their children happy, assist their wants, alleviate their misery, and sympathise in their sufferings! It is God who has thus placed the hearts of parents in union with the concerns of their children; nay, the power of nature, as well as of religion and humanity, extends that sympathy to others; so that children who are destitute of the assistance of parents, either by death or the omission of parental duties, find relief and comfort, fathers and mothers, in other persons. God has connected the happiness of parents with that of their children, so that it is *morally inseparable* therefrom: nothing but death should be strong enough to dissolve parental affection.

Sch. 1.—Hence we see how very consistent it is with human happiness, and consequently with moral law, that parents should have a right to devise their property to their children.

Sch. 2.—What then is hard enough to serve as a reproach for the great neglect that is frequently suffered to take place in the education of children? How unaccountable is it to consign them in their tender years to the company of rude or wicked persons—to trust them entirely to a master or a madam—to send them to a public institution, and to be less concerned, with respect to their progress and conduct, than one would be about a horse or any other favourite creature?

Sch. 3.—The very little concern men take in causing their children to have a proper sense of religion, and their neglect of inculcating those sentiments of their dependence on God, for all they have or may expect, which are so well calculated to make strong impressions on their tender minds, and early habituate them to the practice of virtue,

virtue, form another astonishing proof that the present age has strange notions of education. We shall not animadvert on the noisy crowds of idle vagabond children who obstruct the streets by day, and particularly by night. Still we are republicans, and boast of republican manners!

The support and education of children, which require the joint efforts of parents, are therefore further strong arguments to prove, that no other connection of the sexes can be naturally lawful but that which is founded upon a firm and permanent union of the parties in one common interest. This union is to be *indissoluble*; nothing but the death of one of the parties ought to cause a separation.

Unhappy are the parties connected for life, who have given up all their individual interests, and placed their happiness in mutual assistance, in reciprocal fidelity, and in joint efforts to promote the end of their association, if love be not both the basis and soul of that union, and if there should be cause to resort to the perfect affirmative rights in each other's person which are naturally created by that union.—The most grievous injuries must arise, if one of the parties should forsake the other, or be remiss in performing those duties which are necessary for the promotion of their joint happiness and that of their children. Nature never fails to give rights adequate to the duties she imposes: persons cannot form a distinct society, nor lawfully have a separate interest from others, but upon the strength of particular rights required by the end of that society, and adequate for the security of that particular interest.

There are likewise perfect affirmative rights required, that others may be excluded from lawless interference. Injuries attempted or committed against
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the peace of the union or the attainment of all its objects, must be prevented, warded off or repelled. Perfect affirmative rights are necessary, on account of the frailty of human nature, that fidelity be secured, internal security established, and injuries corrected which might unfortunately take place between the parties.

Hence it follows, that no connections can be lawful which are not voluntary, resting upon and proceeding from the mutual consent of the parties: acts of violence are highly criminal, and, by the laws of civilized countries, offences capital and felonious.

Sch. 1.—The same conclusion flows from the consideration, that connections cannot be lawful which are not founded on true love.

Sch. 2.—Unwarrantable as it is in children to slight the advice of their parents and friends, in concerns which have the greatest influence on their happiness, and as much as gratitude requires that they should ask their consent; so, little can an interference be recommended which is dictated by ambition, avarice, or other sordid views of parents, in matters which concern the peace and happiness of their children.

Sch. 3.—But to disapprove and oppose connections with wicked or profligate characters, is the duty of parents; and woe unto children who despise advice so truly parental!

From these several considerations it follows, that a connection between the sexes naturally lawful, may be considered in one respect as a *voluntary society*, which, as rights and obligations flow from the end and nature of lawful connections hitherto explained, is at the same time *equal*.—In another point of view, this connection has the form and comprehends all the ingredients necessary to a lawful pact; for, where persons mutually promise the most sacred fidelity in performing all that is necessary for the happiness of their union and the advancement

advancement of its objects, and make a tender of perfect and affirmative rights in each other's person, there is both acceptance and transfer, consequently a contract.

Although lawful connections are justly considered as contracts in the forum of nature, as well as in the civil, yet there is in them this vast difference from all other pacts which have for their object rights in things, that they must be consistent with the natural rights in persons, and that these rights must be modified by the nature and ends by and for which connections of the sexes can only be lawful. There cannot be a claim to arbitrary and despotical sway or slavish subjection: it cannot consist with natural law, that an union be formed for a time, or dissolved by mutual consent. *Concubinage*, even where children are supported and educated, cannot be lawful, because the bond of perpetual union, essential to common happiness, is set aside.

Whether lawful connections be considered as contracts or as voluntary equal societies, they ought to be attended with certain external solemnities, giving them publicity to others, that no act may take place by which the peace and happiness of the union, or its objects, may be disturbed.

Besides this, justice, decency and propriety dictate that deference to the good opinion of others, which is due to our fellow creatures and ornamental to the connection.

In both cases, it is easy to determine, in general, the persons who may or may not lawfully associate:—Nature undoubtedly gives that right to such as can make a lawful promise or give a valid consent; but it

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denies it to children, to lunatics, and to all such as have not the physical or moral faculty to will or to perform. Neither can persons form a lawful connection who are pre-engaged, or where any moral impediment is in the way.

We rather prefer, however, the consideration of this subject under the idea of a voluntary equal society, where the respective rights and obligations of the members result from the nature of the society, not from the will or caprice of either or both parties: because, if an union is blessed with children, a society arises, which is altogether natural in its foundation, and consequently necessary; for as such the relation of parents and children must be considered.

Before we conclude these general principles and proceed to the several states of men which rest upon them, it will be necessary, for the sake of perspicuity, to reduce them to two principal points; the one depending upon the qualifications of persons, or the requisites of those who may lawfully associate; the other referring to the end or ends for which associations made can only be lawful.

1. No connections can be lawful unless they proceed from the mutual consent of the parties, and are formed upon the basis of a perpetual union, established upon true love and affectionate friendship, and supported by perfect and affirmative rights in each other's person, for the more effectual attainment of its object.

2. The end of this perpetual union must necessarily be the common and joint interest, the promotion of each other's happiness, and the propagation and education of the children who should derive their origin from it.

Sch. 1.—Since this end is not always attainable in its full extent, children being a blessing of the Lord, not in the power of the parties, nor the exclusive consequence of a lawful connection; it follows in this case, that a connection is lawful which extends no farther than a perpetual union for promoting each other's happiness.

Sch. 2.—Connections which defeat that end are imputable to the moral causes, are extremely inhuman and criminal.

Sch. 3.—To make a single life a virtue in itself, or the object of religious vows, is as unjust and barbarous as it is sinful and superstitious.

CHAPTER IV.

Of the matrimonial or connubial society.

THE end for which a lawful connection may take place is a perpetual union for promoting the happiness of the parties: it likewise extends to the natural consequences of that union, the propagation and education of children, in cases where children derive their origin from that connection.

We may therefore distinguish a *proximate* and *ultimate* end: the former is in the power of the parties to obtain, and their indispensable duty to pursue, by faithfully performing what is reciprocally necessary for their mutual happiness, what may perpetuate their friendship, and contribute to the attainment of the objects of the union, as far as is possible: the latter has respect to the propagation of children, for which the Most High has ordered such a lawful and perpetual union to be formed and conducted in consistency with the destination of human nature, and conformably to his law.

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If persons vest one another with perfect affirmative rights for the ends of mutual happiness, the propagation and education of children, they are said to enter into the *matrimonial state*.

The matrimonial state is distinguished into the *connubial* and the *parental*.

In the connubial state the relation is considered between *husband* and *wife*; in the parental, that of *parents* and *children*.

Both the connubial and parental states are morally connected where they are naturally so; that is to say, when husband and wife are blessed with children, they are bound to the performance of the parental duties, to maintain, protect and educate them.

If one of the parents dies, the parental rights and duties center in the other; if both should be called from the stage of life, these rights and duties naturally devolve upon those of the nearest relations who are best calculated for the charge.

If parents become naturally such, by begetting children without having entered into the connubial society, they ought, if possible, to become moral parents, by forming that indissoluble union upon perfect and affirmative rights, which vests them with the rights of husband and wife, and qualifies them for the performance of those duties which are requisite for the support and education of their children.

Sch. 1.—Justice to the parties, to the children, to relations, and to society at large, requires that this kind of reparation be made in all cases where it is physically and morally possible.

Sch. 2.—Both these requisites meet in single persons, and in such cases where the condition of the parties is not such, that

that a greater evil would arise from the connection; but then certainly the poverty or low condition of one of the parties cannot be among the causes that render the connection ineligible. Vices, fraud, deception, and the question whether the seducer is thereby brought to a better condition, are of more consequence.

Sch. 3.—It may be supposed there is not a better mean by which seduction may be more powerfully disarmed, and the innocence of the honest and industrious poor more effectually protected, than to compel the seducer to contract the connubial state with the object of his criminal conversation.

Sch. 4.—If it be objected, that this would be founding a connection not upon true love and real friendship; we answer, that in case of an injury and a heinous crime, the first question is the making reparation; and the second, which is the most suitable punishment for an offence by which the laws of God, of men, of humanity, piety and decency have been wantonly transgressed?

Sch. 5.—Have not the children a natural claim? Is he a man who can deny his own flesh?

Sch. 6.—Reparations of this kind are impossible, where either or both parties are under the obligations of a connubial state; and this impossibility must be considered as one of the causes why adultery is of infinitely greater turpitude and malignancy than other lawless connections.

However, where children are not or cannot be the consequence of the connubial state, all the duties of husband and wife center in the reciprocal rights and obligations which have for their object mutual happiness and perpetual union; and that state maintains the sanction of the matrimonial.

The first case has reference to persons who might naturally have expected the blessing of children; the second relates to such as have so far advanced in life that such an expectation finds no place. There husband and wife are bound to their perpetual union, because they have pursued the ends of matrimony as far

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as was in their power: here higher obligations may justify and render a connection eligible which is necessary for their mutual comfort and happiness.

Sch. 1.—But let it be observed, that the latter case cannot be extended so far as to justify marriages obviously improper, between persons of too great a disparity of years for even happiness to be thereby expected.

Sch. 2.—Those who have become parents by a former marriage ought to avoid subsequent connections, which are injurious to the support and education of their children.

CHAPTER V.

Of the more specific rights and duties between husband and wife.

SINCE lawful connections, as has been shewn, must have the nature of voluntary and equal societies, it follows, that the matrimonial or lawful connubial society must be equal; that is, no rights or obligations can take place between husband and wife which do not flow from the nature and scope of that intimate relation. But as that scope is mutual happiness, and as happiness cannot subsist without order, peace, regularity, and an uniform direction of their joint will for the attainment of the objects of their perpetual union, it will be necessary for one of the members to have the general direction.

The question then is, whether the husband or the wife is lawfully vested with that right? Among the variety of causes assigned for the appropriation of family government to the male sex, we think this the most material,

material, that nature has formed that sex for those concerns of the family which generally lie beyond the walls of the house and surpass the limits of the field; whilst the wife has her place particularly at home, where her infant children stand in need of her incessant care and assistance. At this rate, the husband, who has his business both abroad and at home, must needs acquire a more extensive knowledge of what is conducive to the promotion of the interest of his family; and it is natural that the direction of affairs should devolve upon that person who is calculated to conduct it to the best advantage.

Sch. 1.—Happy that marriage where true love and faithful friendship bear sway—where husband and wife, guided by virtue and piety, vie with each other in the most assiduous efforts of benevolence.

Sch. 2.—Family affairs and family government ought to be conducted upon principles of humanity: despotical conduct in a husband is barbarity—moderation and gentleness his greatest ornament: modesty, subordination and rational obedience in a wife are more excellent, more invaluable than all the jewels which India has or shall ever produce: but slavish subjection is a disgrace, not to the poor sufferer, but to the rude barbarian who dishonours humanity.

The rights and obligations between husband and wife are mutual or reciprocal; for only such comport with the nature and scope of the connubial or matrimonial society.

Hence it follows, that as the husband has the chief government, so he is bound to conduct it only for the promotion of the joint interest: and the right of the wife is to expect or to have *maintenance*; that is to say, such support as comports with the good of the family, and is proportionate to its circumstances.

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Sch. 1.—Our laws have exceedingly well provided both for the protection and support of a wife; but it is a pity that a profligate husband can frustrate those laws, by squandering away all during his life-time, except where the family is possessed of a real estate.

Sch. 2.—It is therefore a question, whether it would not be consistent with good policy, as well as with the eternal laws of justice, that drunkards, gamblers, &c. be restricted so as not to have it in their power to disgrace and ruin their families; since such persons are unfit for family government, and deserve, as in some countries is the case, to be put under the direction of trustees appointed by law?

Sch. 3.—The right of maintenance is the only right left to a wife that, according to the laws of some countries, is *divorced a mensa et thoro*.

The mutual rights and duties between husband and wife are principally of the imperfect kind, and on this account are unlimited in extent, as much exceeding those which are due to other persons in intensity, as their relation is the nearest that is possible among mankind. Is love in general of an accommodating nature? is it benevolence and friendship to a well-wisher? is it regard, esteem, affability, and assiduity to please in near relations and equals? is it sympathy, patience, forbearance, pity, or mercy, where mediocrity is its object, or where infirmities present themselves, errors and failings take place, or even injuries and wrongs provoke? What is it that conjugal love cannot effect, correct or endure?

Even the perfect rights of man and wife, which extend to all that is necessary and in their power to promote the best interests of the union and the happy attainment of its objects, should be performed, not from the low consideration that the partner has a right to compel, but from principles of love, sympathy, piety and humanity.

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Much less should room be left for correcting the want of fidelity: appearances, even suspicion, nay, any thing that can be a pretext for it, ought to be avoided. Actual breach of fidelity is a grievous injury of the most heinous nature, and a cause of inconceivable mischief and unhappiness.

There is no doubt but that there are injuries possible, which in themselves would be sufficient causes for dissolving the connubial or matrimonial connection.

The legal declaration that the bond of matrimony is dissolved, is stiled *divorce*.

The relation between husband and wife may be entirely annulled, or the laws of the land may leave to a repudiated wife some of the rights of matrimony, to wit, the right of maintenance. In the former case the divorce is *total*; in the latter it is *divortium a mensa et thoro*.

The natural laws admit not of total divorces, where innocent children are affected and persons deprived of all their dependence, as must be the case with a repudiated wife; for such an effect cannot be reconciled to the nature of equal societies, and can only comport with despotic sway on the part of a husband.

Neither do the principles of eternal justice require a remedy, which, in its operation, produces more evil than good, and applies not to an impartial administration of justice. What would become of the conjugal society, the nursery of church and state, if every or even any injury could break the social union? What a temptation to frail mortals for becoming remiss in the exercise of the duties of humanity, if the most powerful motives for mutual compliance between the parties

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be taken away! Whilst, on the other hand, the consciousness of the indissolubility of the connection must be a constant spur to their assiduity in performing, with faithful sincerity, the mutual duties of benevolence, sympathy, and even forgiveness. He that fears God, and is faithful in his endeavours to promote the cause of virtue, will not wish to be freed from an injury at the cost of humanity and to the detriment of human happiness, which must be the consequence when a dissolution of the connubial tie can be expected.

It is true, that adultery on the part of a wife is an aggravated injury, as children are introduced in the family to the injury and disgrace of the husband. But should the punishment of infidelity fall only on the side of the wife? Should she not have an equal right against a faithless husband?

Had not the parties their choice in forming the connection? Does it not very much depend upon the discretion, prudence and virtuous intention of this choice, that the society be established upon virtuous love? Does it not generally depend upon their virtuous conduct to strengthen the bond of union? Are there not perfect rights to check what is obnoxious to the peace, confidence and happiness of the parties? Are there not a thousand remedies short of a total or partial dissolution?

So much is certain, that it is often the punishment, and for the most part a just one too, that parties should remain bound in a connection begun improperly, and conducted imprudently and impiously.

The seducer deserves indeed the highest punishment, as he is the principal and moral cause of inexpressible mischief, and an irreparable injury.

Adultery

Adultery is doubtless one of the greatest injuries that can happen to a family; if committed with a single person; for no satisfaction can be made without adding to the damages of a faithful partner: but when this crime is committed by persons on both sides bound by the sacred duties of a connubial society, it surpasses estimation—the damages are far beyond calculation.

If, notwithstanding these considerations, experience should render legislative interference eligible; if there should be cases where a divorce is become expedient, we think it should not be extended, on the side of the woman, further than *divortium a mensa et thoro*. Nothing appears from the principles of nature, why the wife should not have the same right, together with a generous maintenance from the estate of her husband, in case he should be found unfaithful to his matrimonial engagements.

What may be said of another marriage, with respect to either party, is very difficult and precarious: and even this intricacy and difficulty is in favour of our principle, that a divorce should not be sanctioned by the laws of the land.

There is another question with respect to the connubial state of persons who cannot form lawful connections; but we have here no occasion to speak of divorce; the bond of lawful union is not dissolved, for there was no such thing from the very origin of the connection. The laws of the land should rather endeavour to prevent than to *annul* them.

Connections are *annulled*, when they are declared by law invalid and void.

Those marriages are *void*, where the contract is made
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by persons who have not the physical or moral faculty to will and to perform: the former is the case with all who have not the exercise, or have not arrived to the maturity of their understanding; likewise with such as are bound by a former marriage: the latter refers to natural infirmities, and to such persons as cannot perform the parental duties; also to cases where the connection is contrary to the scope of the connubial and parental states; for instance, consanguinity, &c.

There are no other *prohibited degrees* resulting from principles of the natural law, than those which are expressly laid down in scripture.

Marriages or connections within the prohibited degrees are highly criminal, and are justly branded with the appellation of *incest*.

CHAPTER VI.

Of the parental society.

THERE is no doubt but the relation of parents and children is one of the greatest blessings of this life, if it takes place in consequence of a happy, firm and established union of parents connected in a lawful connubial society: their common interest becomes greatly enhanced by having those who are their flesh and blood the particular objects of their care; conjugal felicity grows with their growth; and there are innumerable endearments attending their education, which is the most important, and at the same time the sweetest and

and most delightful duty, requiring the joint efforts of both parents who are blessed with offspring.

But if that relation takes place by means of lawless connection, children are so far from being a blessing to the guilty transgressors of the law of nature and of nature's God, that they publish the disgrace and proclaim the criminality of their parents, who have thus offended against God and against man, who have thus injured both their own character and that of their children.

Sch. 1.—To disgrace is added misery and a destitute condition: children often do not know their fathers, or if they know them, they have no legal claim to their protection and care.

Sch. 2.—Hence arises the necessity that parents should, if possible, take upon themselves the duties of man and wife, by entering into the connubial state.

Sch. 3.—Behold the horrid effects of adultery, fornication, a loose and disorderly life! Parents sin against their own flesh and blood; they become worse than brutes!

With respect to the parental society, we have first to enquire into the duties and rights of parents, and then consider the obligations and rights of children.

Besides the imperfect duties of humanity, which indeed have no limits assigned them but these, that they must be perfectly consistent with those duties which are due to God, to themselves and to others, parents owe perfect duties to their children; for, next to God, they are the authors of their existence, and by neglecting them they would be guilty of injuries against their own flesh and blood, and against the whole human race.

The perfect duties of parents comprehend the maintenance, protection and education of their children; for it is the design of Providence, that parents should promote

promote the happiness of their children, by endeavouring to render their souls and bodies as perfect as possible, and by procuring them those means by which these ends may be attained.

Parents must *maintain* their children, that is, give them their necessary support, until they are able to support themselves: without this their life and health cannot be preserved, which however are amongst the most essential duties which parents owe to the bodies, and are presupposed by the still more important duty which they owe to the souls of their children.

Sch.—Parents therefore have to maintain and to protect their children, and to render their bodies and souls as perfect as possible.

The education of children is very comprehensive, and naturally co-extensive with the power of the parents, the capability of the children, and with other suitable circumstances.

The most general traits of this great duty are, first, that children be fitted for the duties of life, and led to an honest and useful occupation, for which they seem best calculated by Providence, that they may support themselves: second, that parents do all in their power that their children may become able to promote their own felicity and that of others. Thus the designs of Providence are best promoted, when children in their time become good parents, good citizens, blessed instruments for spreading abroad the effects of benevolence, guarded by virtue and directed by piety.

Sch. 1.—Need parents be told, that idleness is the bane of destruction to youth? Can there be occasion to shew their great obligation to send their children to school?

Sch. 2.—It may be right that parents, in a collision of obligations, or when better opportunities offer, transfer these duties

duties to others; but they ought to be sensible, that the delegated duties are their own; and it remains an important, though too much neglected, obligation with them to see that the trust is faithfully discharged.

Sch. 3.—Parents who have no opportunities to have their children instructed, ought themselves to undertake the task of giving them all the instruction in their power.

The duties of parents cannot extend beyond the ends or causes of them; for, as all that parents have to do resolves itself into the general duty of assistance, which ceases as soon as persons can help themselves, we may conceive three different states with respect to children, of which the

1st. Is, that in which children must have support from their parents or from others, the state of *childhood*.

2d. That wherein children may support themselves, the state of their *minority*.

3d. That in which they are able to promote their own happiness and that of others, the state of *majority*.

The duty of maintenance ceases with a cessation of the state of childhood; that of education with the cessation of the years of minority.

Sch. 1.—From the natural constitution and particular frame of the mind, which is very different in individuals, a vast difference must arise with respect to the number of years to which each of the above mentioned states of children is confined: much also depends upon their diligence, application, good conduct, and the opportunities they may enjoy; so that it is difficult to draw exactly the line when and at what particular period the two last of these states begin or end.

Sch. 2.—Among the various determinations concerning the states of children, and their rights and duties in consequence of them, adopted by the law of England, which is generally followed by the legislatures of the United States,

States, we only mention those which seem to accord best with the principles of nature; to wit, that children be supposed to possess *discretion*, and to have the right to chuse for themselves their guardians, at the fourteenth year; that they have their *full age* at twenty-one, and the right to dispose of themselves and of real estates.

Sch. 3.—According to the principles of nature, children cannot have the direction of rights in things or in persons before they have the full exercise of understanding—know what is good or bad, right or wrong: otherwise they might make dispositions contrary to the dictates of natural law.

Sch. 4.—Hence results the propriety of allowing children the right of disposal, with respect to things of which they may have obtained a sufficient knowledge, whilst they may not dispose of others.

Sch. 5.—It is likewise necessary for the happiness of children, that they may dispose of certain things, or of themselves in some degree, before the term fixed by law for their full age, or the state of their majority.

Sch. 6.—From this it appears, that children ought not to enter into the matrimonial state without the consent of their parents or guardians, under the supposition that they do not resist higher obligations, which render such a consent exceptionable.

Sch. 7.—But it is not at all consonant to reason, that the consent of parents should introduce children into that state before they have the exercise of their understanding.

The duties of maintenance, protection and education undergo various modifications, keeping pace with the condition of children, and respectively cease at the periods of childhood, minority and majority; that is to say, parents have no occasion to maintain and protect their children, if they can support and defend themselves; they are free from the duties of education, if they have done so much that children can promote their own happiness and that of others. They may then consent to their marriage, and entrust them with the

the management of affairs, when they are calculated to become good parents, good citizens, &c.

But parental love, the tenderest affection, taking a most lively interest in all that concerns the happiness of children, cannot cease but with life, and ought to be visible in its effects after death. We set it down as a parental duty, that parents leave some of their effects to their children after their decease. It is on this account chiefly, that nature has vested persons with the right of property, that they may render their family useful to society: and the greatest good the father of a family can do is to take care of his own household. So far then is the right to dispose of our property for the benefit of our children from being an infringement upon the general rights of mankind, that a contrary conduct would be injurious to ourselves, to our children, and to the community; more particularly so when our parents have rendered our condition comfortable, or when our children have faithfully assisted us.

From the great fondness and provident care which our parents feel for our children, it seems that we perform acts of gratitude to our parents for the particular care received at their hands, if we endeavour to render our children happy here and hereafter.

Sch.—Instinct and duty conspire in dictating to parents the justice to bestow benevolence upon their children with as impartial a hand as possible.

The rights and authority of parents flow from their duties, and are, in every other respect, co-extensive with their obligations; from which it follows, that some will cease when the obligations cease, others will be cotemporary with the parental relation.

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Those rights which have reference to the duties of maintenance, protection and education, in all their stages, undergo various modifications, according to the advancement of children towards maturity, and cease when they become of age.

These rights constitute the parental power, and extend to necessary discipline, to the services of their children, to the chusing for them occupations, to the giving them advice, to binding them to an apprenticeship, to placing them under the care of tutors or guardians, to consenting to their adoption, &c.

They have a claim to the love, respect, gratitude and assistance of their children; for which cause the municipal laws justly command the latter to maintain their parents, and even their grand-parents, if they should have need of their support.

The rights of children are nothing else than the object of the parental obligations hitherto explained, together with those unalienable natural rights in persons upon which it is not lawful for parents to trespass.

The filial duties are love, respect, gratitude in the highest possible degree, with all those marks thereof by which the sincerity of their best endeavours may be manifested.

During the time of their non-age, submission, strict obedience and faithful assistance are perfect duties, which ought to flow, not from a dread of parental power, but from a principle of love, respect and gratitude.

Nothing but a collision of higher duties can justify even the appearance of backwardness in receiving and following the advice of parents.

Sch.—Virtuous parents will not advise children to do evil, nor bind them to a consent which is inconsistent with their happiness.

The least that children can do by way of retribution, is to render the situation of their parents as easy and pleasant as possible.

Children are most sacredly bound to maintain their parents: if such a mark of gratitude is necessary, they should give it with delight.

Teachers, guardians, &c. are under parental obligations and vested with parental rights: they ought to exercise them with that sincerity, gentleness, assiduity, faithfulness, moderation and watchfulness, requisite in fathers who truly love their children.

Wards, and those who enjoy the advantages of education by others, are naturally bound to pay their guardians, &c. the respect, obedience, love and gratitude due from children to parents.

CHAPTER VII.

Of the herile society.

THAT society where one member has perfect affirmative rights in the persons of others, for directing their actions to the promotion of his particular interest, is called the *herile state*; the person vested with that right is called *master*: the actions to be performed for another's advantage in consequence of such rights are comprehended under the appellation of *services*, in the strict sense of the word; and the persons under obligation to perform such actions are styled *servants*.

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Sch.—As there is a great variety, both of modes and actions, by which others may be assisted or their interests promoted; and as innumerable modifications may take place with respect to the affirmative rights which one person may have in another for that purpose; it is evident that there is a great variety of services, and that the principles of the herile state are applicable to a vast number of specific societies, where the relation of master and of servant takes place.

Since daily experience evinces, that services are required for the management of families in the maintenance and education of children, it follows, that persons under certain circumstances may have a natural right to exert themselves, consistently with the dictates of natural law, to acquire perfect affirmative rights in others, for the purpose of promoting their particular interests: that is to say, persons under certain circumstances have a right to become *masters*.

Hence it follows, that the same modes by which persons may lawfully acquire rights in others, are the modes by which persons may lawfully become masters of their fellow creatures.

Likewise, persons, notwithstanding their absolute natural rights, which are perfectly equal with those of their fellow creatures, may happen to be in a state where the unalterable principles of nature, justice and equity require that they should come under perfect obligations to assist others by their services—if, for instance, they can thereby render their state more perfect; if, having been guilty of committing injury and damage to their neighbour, they have no other or not a more eligible mean left whereby reparation can be made; or, lastly, if injury and damages would accrue from the non-performance of such services.

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Persons, therefore, become servants in a manner consistent with the principles of natural law, either by *pact*, by the *right of forfeiture*, or by *law*. In the first case, the herile society is voluntary, and rests upon the mutual consent of the parties; in the second and third it is necessary, resting upon the principles of natural law.

The herile society, however it may be modified, whether it be voluntary or necessary, cannot be lawful except it be equal; that is to say, except the social obligations flow from the end, that is, from the nature of the society: because no society can be lawful if the end thereof is contradictory to the dictates of natural laws, which is most evidently the case with all manner of unequal societies: for, as the social obligations, according to the definition which has been given, depend upon the will and caprice of the claimant of the social right, a society would take place, having for its end the humouring and satisfying the will of a mortal, whatever he might direct or command, good or bad, right or wrong. Is it not impiety to hold up such a right on the part of a frail creature, liable to error, a worm of the earth; when only the *Most High*, who cannot err, who wills the happiness of his children,—when he only is entitled to such subjection, to such implicit submission? And behold, he does not exercise that right he condescends to the indigent creature! he demands obedience to his laws, because that obedience renders his creatures happy.

Can a moral agent, responsible to God for all his powers and faculties, and bound by the most sacred duties to God, to himself and to his fellow creatures—can he, consistently with the dignity and high destination

tion of his nature, consistently with the law of nature and with the will of God—can he render himself abject as a brute, give up his absolute natural rights, and idolize him who is but dust of the earth, make the will of a man his supreme and only law? No: to consent to such a state is the more horridly impious in a person, as he sins not only against God, but against himself and against humanity.

If the law of reparation is nature's law and the will of God, who delights in righteousness, we may easily infer, that reparation cannot be exacted, or pretended to be made, in a manner inconsistent with the moral nature of men and with their responsibility to God.

All servitude, therefore, is unnatural and unlawful, whether founded in consent or on force and compulsion, where the obligations do not flow from the nature or the scope of a herile society, where they are inconsistent with the dictates of natural law and repugnant both to the rights in things and in persons. The fowler and the encaged bird, the ravenous wolf and the innocent lamb, or the hawk with the harmless dove in his talons, might as well be said to be members of a natural society, as those inhuman monsters who take advantage of the simplicity or impotency of their fellow creatures, and domineer over them with despotic sway, have a claim to the state of lawful masters.

Sch. 1.—Tyranny is not to be looked for in despotic governments alone; it often takes root and exerts its fury within the walls of a family. Here we frequently find despotic sway under the mask of parental power, and tyranny exercised against servants by the master of a family, and not seldom by children. The nature of the herile society is, however, still more generally forgot on the part of servants, and that fidelity, industry, œconomy, humility, sobriety, respect and gratitude wanting, by which their
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own happiness and the particular interests of their masters would be truly and effectually promoted.

Sch. 2.—If nature has provided rational mastership, she has likewise ordered rational obedience.

A voluntary servitude lasts as long as the members of the society have stipulated by mutual consent, that the relation of master and servant shall subsist, and of consequence may be *temporary* or *perpetual*.

Temporary servitude, which is voluntary, may be determined with respect to a certain fixed term of time, or with respect to a certain work to be done: the latter case, however, rather refers to the subject of contracts under the forms, *do ut facias*, or *facio ut facias*.

The necessary herile society, founded upon the right of forfeiture, implies a servitude which must be equivalent to a necessary reparation of damages, and may be temporary or perpetual.

But it is generally otherwise in cases where the society results from law: the services of children to their parents, or to those who have bestowed upon them the parental duties of maintenance and education, cease when they amount to a reasonable compensation for the trouble and expences which have been caused thereby.

Whatever the herile society in this respect may be, whether temporary or perpetual, the master has a right to direct in what manner he is to be assisted, or his interest promoted: this right flows from the scope and nature of that society, if care is taken not to extend it to a contravention of the express stipulations agreed upon in voluntary societies, or to what is unlawful both with respect to the rights in persons and in things.

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No servant is therefore bound to obey the unlawful commands of a master; for it is repugnant to his moral nature and responsibility to God.

Sch. 1.—A servant, of whatever description he may be, has therefore no excuse in obeying his master's will to the injury of another person.

Sch. 2.—Behold, then, the debased state of a mercenary soldier!

A master may not burden a servant with more work than is consistent with the powers of such servant to perform.

A master is bound to give his servant sufficient meat, drink, apparel, time for refreshing his body, and for performing those duties to God and to himself which are incumbent upon him as a moral agent, responsible to his creator: besides these and a thousand other duties of humanity, he is sacredly bound to protect his servant against injuries from others, whether intended, or committed by such as are a part of his family, or by strangers.

A master is bound to reward his voluntary servants, by honestly paying the stipulated price for their service.

The servants whom he holds by forfeiture, and consequently has paid before hand, he ought to direct with humanity and command with gentleness: he must likewise render their situation as comfortable as circumstances will admit.

The master has a right, nay, it is his duty to restrain his servants from doing evil, or from committing injury; for all mischief committed by them is imputable to the master's will, if he cannot make it appear that he has done his part to prevent it.

That master can hardly fail of having good and faithful

faithful servants, who sets them an example of humanity and virtue, and instils into their minds the fear of God, and the necessity of preserving a good conscience.

Where the end of the social connection is a particular kind of service or trust, the master has no right to direct any thing contrary thereto; for instance, an apprentice bound to a trade, &c.

Where no stipulations have been made with respect to the particular kind of labour, either in regard to quality or quantity, the known custom of the country determines what may be lawfully exacted.

The duties of servants resolve themselves into the most ready obedience, unabating industry, and strict faithfulness in performing all the lawful commands of their master; his interest must be studied in all their conduct, and they must demean themselves in a peaceable, orderly and grateful manner, and omit nothing that may render them worthy his esteem and good will, as well as that of his family.

Let servants not forget their accountableness to God for all they do, and particularly for their conduct, and the performance of the duties of their station. That noble resolution of Joshua, *As for me and my house, we will serve the Lord*, (xxiv. 15.) is an example worthy the imitation of masters and servants.

Servants are bound to protect their master's person, family and goods.

Sch. 1.—The unnatural injustice of slavery, both with respect to master and servant, has already been sufficiently shewn; we should therefore have said nothing of it, were it not that the poor victims of avarice, kept ignorant with respect to their duties to God and to men, are to the utmost dangerous in debauching the manners of children, who

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are carelessly permitted to be in their company, where their juvenile follies and caprices are humoured and obeyed with the same abject submission which must not fail to be paid to the master or mistress of the family: the *young master* and *miss* soon forget that they have to do with the human species, and imbibe the love of tyranny and vice almost with their mother's milk.

Sch. 2.—The idea of slavery has already so far advanced in our free country, that even the children of the farmer refuse the most necessary work, such as is essential to the management of a farm, under the foolish notion, that it is degrading to a freeman, and an occupation only fit for slaves.

Since there are reciprocal rights and obligations in equal societies, flowing from their nature, it follows, that it is possible for masters and servants to injure one another; the former, if they exact more services than are due, deny the payment of just wages, neglect what is necessary for the support, protection and refreshment of the servants, exceed the just bounds of discipline and correction, &c.: the latter commit injury if they perform not faithfully all lawful services, if they neglect to assist their master, idle away their time, squander away their master's substance; if they submit not to his advice, or leave his service, or behave disorderly and disturb the peace of their master's family, &c.

A master is injured when others seduce his servants, or have any commerce or conversation with them, whereby the end of the herile society is affected or frustrated.

A master may lend the service of his servant for a time, because it is consistent with humanity and justice that others be assisted.

There may be circumstances where a master may alienate the service due upon forfeiture, under condition

tion that the state of the servant becomes not worse: all other alienations of right in this respect ought to arise from express stipulations of voluntary societies, or, where such stipulations cannot be made, from the mutual consent of the parties.

No person can be born a slave, because slavery is utterly contradictory to natural law.

It is possible, however, that one may become by birth a temporary servant: for instance, a child born of a woman who is either a perpetual servant, or bound to service for a considerable length of time: the child must be supported and maintained, and should even be educated by the master of such servant: whence it will be necessary, that the child in the first case should be bound by the principles both of justice and gratitude to indemnify the master for his care, trouble and expence; and in the second, either the servant or child must do it. Here many causes concur, which render it consistent with prudence and justice, that the mother should consent to the temporary servitude of her child, particularly when there is on this side the best prospect for its maintenance and education.

Sch. 1.—Such like cases are instances of the herile society founded in law.

Sch. 2.—The servitude of children to their parents, as founded in law, cannot extend further than the state of their minority, and ought not to exceed that state with respect to the children of servants, except the expences of their maintenance and education have amounted to more than the service of such a space of time can reasonably compensate.

Sch. 3.—It is not to be reconciled with natural equity, that the children of servants should be bound for a longer term, because the master was at a trouble against his will; for, if it be considered that the children cannot, at least ought not

not to expiate injuries committed by their parents, it will be plain, that they cannot be held in servitude when compensation is made for their maintenance and education.

Sch. 4.—It is more consistent with natural laws, that the master should feel an inconveniency from that which in many instances may be attributed to his carelessness in not sufficiently watching the morals or giving instruction to his household.

Both the rights of masters and the obligations of servants keep pace with the various circumstances of the herile state: for instance; in the military service, command, in time of an invasion, must be extremely strict, and obedience almost implicit; because social rights and obligations flow from the nature of the society as well as from that of the circumstances.

CHAPTER VIII.

Of the domestic society.

THE society which comprehends the connubial, parental and herile states, is called *domestic*, and may be defined to be that in which persons have perfect affirmative rights in the persons of children or servants, for directing their actions and services in such a manner as that the peace and security of the whole society may be preserved, and its happiness promoted.

Persons vested with that right are called the *heads of the family*; those who are under perfect obligations to perform actions and services for those ends, are comprehended under the appellation of the *household*.

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Sch.—The household of a family may be the children or the servants, or both: in the first case the household is *incomplete*; in the last it is *complete*.

Since the right of directing the actions of others to a certain end is called government, it follows, that those who are the heads of families are vested with family government.

The parents in a family are by nature its heads, and have the right of family government; for parents have a right to direct the actions of children, as well as the right lawfully to endeavour to obtain perfect affirmative rights in servants, for directing their actions so that they may be assisted in the duties of maintaining and educating their children, and for having their interest, with that of their connection and its objects, promoted. But, either children or servants, or both alike, constitute the household: they consequently are subjected to the heads and governors thereof.

The domestic society is compound, for it consists of the connubial, the parental, and the herile.

It is likewise *equal*, for these are equal.

The right of the heads of a family, or their power and government, cannot be despotical, but is limited.

A right to direct the actions of others implies authority for enacting laws, and for publishing and putting them into execution; because the nature of free agents is such, that they ought to be so directed as that motives should be connected with their actions. From a connection of motives result obligations, and rules importing these are laws.

Family government, therefore, is not a government of arbitrary will, but a government of laws.

Since

Since no laws can be just which have not a good for their object, it follows, that no family laws can be just except they have the good of the whole family in view.

The common good of a whole family will be consulted, if the ends of the herile, the parental and the connubial states are so modified, that they be in the greatest possible harmony, and that each particular society finds its greatest advantage in the union for a common interest.

Since the principal ends of the connubial and parental states are the mutual happiness of the parents in a perpetual union, and the propagation and education of children; and since the scope of the herile society, on the one hand, comprehends the services of children or of servants necessary for the promotion of these ends, and on the other, requires the necessary support, refreshments, protection and just retribution, as the case may be; that is, requires the happiness of the parties; it follows, that the domestic society must have for its end a common good, wherein all its members are interested, and the felicity of all the states of which it is composed secured and augmented.

Since all the laws of a family must center in the common good of all the members thereof, it follows, that we may lay down as the fundamental law of family government, this proposition: Direct you actions so that the common good of the whole family may be obtained, preserved and promoted.

Sch.—What is repugnant to this law is unjust and unreasonable, whether the action proceed from the head of the family or from any member of the household.

There

There are various things necessary as means for the support and convenience of a family: some of these have a direct, others an indirect influence on all its members; but all serve to promote the common good of the whole society, if care is taken that they do not interfere with one another; that is to say, if that order is observed, with respect to time, place and other circumstances, which the scope of the society and the nature of these circumstances require.

The head or heads of a family, therefore, may make rules, nay, even transfer the direction to others, for the regulation of the services; and the servants are bound to follow those rules.

The laws of a family cannot bind to things unlawful, nor to such as are not in the power of servants, or are contradictory to their unalienable natural rights.

A family cannot be happy, where there is cause to dread evil within or injury from abroad.

The heads of a family must therefore make rules for the internal peace of the society, and for its protection against injuries from abroad.

Servants are perfectly bound to obey such rules: they must not injure any of the family, or any other person or society; for by the former the peace of the family is interrupted; by the latter others may have cause to disturb its security.

As the state of a household becomes insecure and unhappy when the heads of a family injure others, it follows, that heads of families injure their household if they do not endeavour to prevent the enmity of their neighbours.

If

If the heads of families be therefore the aggressors, the household are prohibited by higher obligations from supporting them in their injustice.

On the contrary, if the household are injured by persons abroad, or by another household, the heads of the family are bound to protect them.

A family that avows an injury done by one of the household against another person or household, or a member thereof, and refuses reparation, injures that person or household, and gives a just cause for war.

The heads of a family engaging in a just defence or war, have a perfect right to be assisted by their household; for without that assistance the common good of the family cannot be preserved.

CHAPTER IX.

Of communities.

IT may be for the happiness of several families to enter into a society for common defence, and for promoting their local interests. Here the heads of families may meet and consult, each ordering his own family so that harmony and amity be preserved, and such things performed as may cement their union, and give it strength and security against intruders or invaders.

Such a state we may call a *community*; of which most of the Indian nations are instances.

As the interests of families associated in a community, without a general government and a uniform conduct

conduct of all its members, cannot but frequently clash ; and as, in cases of common danger, defence and war must be conducted with a certain degree of uniformity, and under the direction of a leader ; human prudence, nay, necessity, the mother of wisdom and invention, must soon point out the danger of a want of system, and the propriety of coming under one rule and under one direction for the peace and security of the whole community, and the happiness of each of the constituent families.

The same causes which first prompted a confederation of families, have no doubt given rise to communities associated under one general law and government.

Communities united under one law and government are the constituent societies of *states*.

Sch.—Instances of such societies are the incorporated cities or towns, the townships or districts of states—in fine, all manner of civil societies, the government of which is local.

That general society which comprehends the interests of individuals, of families, and of communities spread over an extensive tract of country, is called the *civil*.

PART II

THE HISTORY OF THE

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The great and

If civil society

P A R T II.

Sect. IV. *Comprehending politics.*

CHAPTER I.

Of the nature and difference of civil societies or states.

HAVING in the preceding section briefly explained the principles of natural justice and equity, with respect to the conduct of persons, who are members of the most intimate societies among the children of men, the object of which is confined to the particular interests of families and neighbourhoods; it is proper that we should now proceed to the consideration of that *general society* which comprehends both the individual and social concerns of a vast multitude of persons, families and communities, having for its ultimate end the *public good*; that is to say, the felicity of all.

This great and general society, comprehending the interests of all other associations, and having for its ultimate object the felicity of all its members, is, *by way of eminence*, stiled *civil*.

If civil societies are considered in their relation to one another, they are called *states*: thus we find the globe divided into various empires, kingdoms and republics, all which agree in this their general character,

rafter, that they are states under different forms, modifications, laws and governments.

Civil society, or a *state*, may be defined to be that general society, the members of which have transferred their will and power to a certain person, for the attainment, preservation and advancement of the public good. The members of civil society are called *citizens*.

Sch. 1.—The very necessity of the case renders a transfer of that nature necessary, as soon as the extent of a society is too great to admit of a personal attendance of all the members for deliberating on those things which are necessary for or conducive to the felicity of the whole body.

Sch. 2.—All authors on morality agree, in general, with respect to the transfer of will and power, and all governments act upon it; there is, however, this difference, that whilst the former have much controversy among themselves in determining the originating cause of that transfer, the latter are very apt to forget the source and foundation of their power and political existence, and often substitute their own will for that of the whole society over which they rule.

Whether such a transfer of the public will and power is made, or supposed to be made, to one or to a certain number of individuals, the consequence is, that a *moral person* is thereby constituted, so that such person, or persons as the case may be, becomes a *public person*, vested with public rights, and is under public obligations.

Sch. 1.—From the modifications of the moral or public person in a state, result, as we shall see hereafter, the different *forms* of governments, the monarchical, the aristocratical, the democratical, &c.

Sch. 2.—The transfer itself may be variously modified and limited: from these modifications and limitations result the *qualities* of government; whether a state is despotical
or

or limited, whether dependent or independent, whether it is or is not vested with national sovereignty.

Sch. 3.—Those who hold that certain forms and qualities of states or governments are of divine institution, presuppose that the will and power of a people is transferred by God.

Sch. 4.—Others, who see the absurdity of such a supposition, hold that all authority in a state is and ought to be derived from the people.

Sch. 5.—As despots substitute their own will for that of the people, they make use of the power of the members of the state to their own destruction.

Sch. 6.—Wise and good governments, whatever their form may be, will always respect the people as the main object of their care, and the source of their authority.

Sch. 7.—We meet the objection which has often been made against these obvious and generous ideas of good government, from misconstruction or rather misapplication of certain passages of scripture, with an open and candid acknowledgment of the necessity of civil government for the general felicity of mankind, as this is the sum of all that those passages intimate. Thus far we hold government to be an ordinance of God, that we believe a good government to be the greatest temporal blessing on earth, and that there is nothing more conformable to his will, or more conducive to the happiness of mankind, nothing at least more suitable to the profession of religion and christianity, than a faithful obedience to all that is lawfully commanded by civil authority, and a patient forbearance with respect to those public proceedings which have not that salutary tendency to promote, as they should, the felicity of mankind.

The public person in a state has a right to direct the will and power for the attainment, preservation and advancement of the public good; for it is for that purpose that the public will and power have been transferred.

Sch.—To pretend a right to rule without, or repugnant to the will of man, is to pretend to a thing that is unlawful in itself, and contradictory to the nature of rights in persons;

sons; for members of the civil society cannot cease to be men, and as such must be ruled in a manner consistent with the nature of a moral agent.

A right to direct the moral actions of others is called *government*.

Civil society, therefore, necessarily requires government.

Those who exercise civil government are said to be in *authority*, and are stiled the *rulers of the state*; the persons directed by civil government are said to be subject to public authority, and are stiled the *people*, or the *ruled*.

Since the members of civil society are called citizens, it follows, that these are distinguished by the rulers and ruled.

Since rulers are vested with public authority to direct the will and power of the people in all that is necessary for the attainment, preservation and advancement of the public good, it follows, that the ruled are under perfect obligations to do all that is necessary to be done for this desirable end.

From this it immediately follows, that both the public rights of the rulers and the public obligations of the ruled, flow from the very scope and nature of civil society; that is to say, CIVIL SOCIETY IS EQUAL.

Sch. 1.—We distinguish equality into absolute, social and legal.

Sch. 2.—*Absolute or natural equality* finds place between man and man, considered in their nature or under the same circumstances. This equality, as we shall see, is the natural state of nations with respect to one another.

Sch. 3.—*Social equality* results from the nature of social connections; some of which, as already explained, are necessary, others again voluntary.

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In necessary societies, the directory or compulsory right is unalterably vested in one member, as is the case with parents and masters; whilst perfect obligations, on the other hand, are invariably confined to the other party of the society, as long as the social connection remains founded in nature; as, obedience and services on the part of children and servants to their respective parents and masters.

In voluntary societies the consent of the parties directs who is to command, and who are bound to obey: the nature of them consequently is, that whilst rulers have to direct the affairs of the society, it is the duty of the ruled to obey them, according to the stipulations of the social compact, and in conformity to the scope of the connection.

The equality of the respective members of societies is therefore by no means favourable to the idea, that there is no difference between the ruler and the ruled, the father and the child; or that the ruled can be at the same time ruler, or the master a servant: no; such things cannot exist at the same time, and are not practicable by alternate rotation, as long as the social connection subsists upon the foundation of nature or pact. Here children and parents, servants and masters, soldiers and generals, the ruled and the rulers of states or nations, are equals, because their respective obligations and rights are not arbitrary impositions, but salutary rules, consistent with nature, and necessary for the general happiness of mankind.

Sch. 4.—By *legal equality* we do not understand a levelling system, depriving men of their just rights, but an equal administration of justice, without respect to person, rank, dignity or calling, and an impartial taxation, according to the property and abilities of citizens.

Sch. 5.—It may, perhaps, not be amiss to observe here, that it is not absolutely necessary for reinstating citizens into their natural rights of equality, to pull down the thrones and the established forms of government, and to level all the conditions of citizens: for an overbearing spirit takes possession of men who have drawn their origin from humble cottages, as well as those who are born in courts and princely palaces. A government unequal in its institution may be equally administered; whilst, on the other hand,

hand, the most equal may be abused, and the powers intrusted by the people into the hands of men of their choice, perverted to the ruin of the state, to the vexation and oppression of its citizens.

Sch. 6.—If fundamental laws have intrusted the reins of government into the hands of persons who, like the heads of the necessary societies, are invariably fixed as the rulers of empires, kingdoms, &c. which is the case in hereditary states; let such rulers exercise their rights in consistency with the scope of the society; let them exact no public obligations, but such as are pointed out by the public good of the state; nay, let no citizen claim immunities to the prejudice of his fellows; let the necessary burdens fall upon all citizens, according to their abilities and circumstances; let the laws be no respecters of persons, &c.

Sch. 7.—Behold the necessity and nature of the *reforms* requisite in many governments now extant! which require, on the part of the rulers and the privileged orders, sacrifices well worthy the wisdom, patriotism, justice, equity and humanity, in which great minds find the highest satisfaction and the greatest glory.

Sch. 8.—We cannot dismiss this important subject without a most cordial congratulation, addressed to the free and independent citizens and electors of these states, founded upon the true principles of civil equality; with our hearty wishes, that these glorious institutions of civil government may continue to be so happily administered, that the rulers and the ruled may have but one common interest at heart, the general good of the *new-born nation*—placing the glory of North-America in the liberty and happiness of the people.

Public good, the general felicity of individuals, whatever their state or situation may be, must necessarily be of a vast extent, as it comprehends all manner of objects which influence human happiness under every circumstance of time, chance and place. To find out the mode and manner how the particular and social interests of the community may be best attained, secured and advanced, under all circumstances, is the study of the

the statesman, and an object worthy the care and consideration of a government impressed with a desire of promoting the public good.

Perfection, however, cannot be expected where frail men have an agency. Great and complicated machines cause frictions, and carry in themselves obstructions to their power. To govern a state is a vast undertaking: collisions and difficulties keep pace with its extent. It will remain a matter of controversy, both in public consultations and in the comments which the ruled make on them, whether things are or are not consistent with public good.

In order to facilitate our enquiries with respect to this important subject, it will be necessary to select some essential ingredients, without which public felicity cannot subsist, from other things which have but a remote influence, and are not always attainable; as, an extensive, well-situated and populous territory, or an abundance of materials for manufactories and commerce.

We hold, that the public good of civil society essentially consists in the enjoyment of *civil liberty*, of *internal* and *external security*.

Sch. 1.—We here consider a state in the enjoyment of all the rights of government and sovereignty; that is to say, both in its political and national character.

Sch. 2.—The *political character* of a state comprehends all the rights of government which are necessary for the enjoyment of civil liberty and internal security: these rights constitute what we shall hereafter call the internal sovereignty of a state.

Sch. 3.—There are states which have vested the rights of government, with respect to external security, in a confederation, or in a consolidated general government; whilst
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they

they enjoy separately and in themselves all the rights of internal sovereignty; that is, the rights which are necessary for the direction of their internal concerns, their separate interests, and their internal security. Such states are *internally independent*; whilst the confederation, or the general government, maintains *external or national independence*.

Note 1.—Thus the seven united provinces of the Netherlands, and the cantons of Switzerland, are free, sovereign and *internally independent* states: but their national character, their external sovereignty is in the States General, and in the Helvetic body.

Note 2.—Thus the individual states of the American union are free, sovereign and naturally independent; whilst the general government exercises the *national sovereignty* of that union.

Sch. 4.—There are states which are restricted with respect to internal sovereignty; that is, subject to the controul of another state in the direction of their internal concerns; as, the kingdom of Ireland, the British and other colonies, where the laws are liable to the controul, or even reversion of the respective courts, &c.

Sch. 5.—But there are also states which bear, at the same time, both the political and the national character of states; as, Great-Britain, France, Prussia, Russia, Poland, Sweden, &c.

Sch. 6.—Those nations which are states bearing the national character, may be considered as states and as nations; that is to say, both in their political and national character.

Sch. 7.—Since we shall treat of the law of nations hereafter, let it be observed, that what relates to their political character will be the subject of this section; whilst all those things will be reserved for the subsequent part of this treatise which refer to the public rights and obligations of nations among one another.

Civil liberty necessarily imports a restraint upon that natural liberty to which individuals are entitled by nature and that natural relation which they bear to one another; for it would be impossible that one com-

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mon interest could subsist, or the public felicity be obtained, if every man might exercise his natural right as he would wish, since, at this rate, each would pursue his own interests, whether they were or were not consistent with the felicity of all. Hence it follows, that for the attainment and preservation of civil liberty, all those natural rights must be surrendered which are incompatible with the public good of the whole society.

Citizens, as such, are therefore free, when they enjoy all those natural rights which are not necessarily surrendered for the attainment, preservation and advancement of the public good, and when they have in this good their just and proportionate share.

Civil liberty is therefore defined to be that state of citizens, in which they enjoy, together with those acquired rights belonging to them, as members of civil society, all those natural rights which are consistent with the public good.

To make a surrender, in the hands of government, of such natural rights as are not necessary for the promotion of the public good, would be both foolish and unjust: *foolish*, because it would be acting without a good cause, without a rational design; *unjust*, because it would involve a contradiction with the first principle of natural law, upon which all civil laws and obligations ultimately depend: for the very end of the institution of civil society is this, that the state of all the members may be thereby rendered as perfect as possible.

If, therefore, civil societies are properly instituted and well administered, the citizens will be *gainers*, since their acquired civil rights will make more than sufficient

sufficient amends for those of their particular natural rights surrendered, which, in their hands, could have been of very little use, if not altogether useless. What, for instance, avails the natural right of compulsion or defence, when your strength is not adequate or superior to that of your adversary; or, if he finds associates in committing injuries against your person or property? In the civil state the strength of all is your protection, your shield, and the wisdom of the whole society your guide. If the public good is promoted, your own felicity is advanced. The public happiness and strength of the state diffuses comfort, happiness, peace and security over all its members.

Sch.—Civil liberty is then to be well distinguished from that which is natural. A spirit impatient of rational, salutary and necessary controul, is not liberty, but wanton licentiousness. Public good, and not the accidental changes of time and circumstances that may befall the state, is the true standard of civil liberty. The citizen is not less free in the day of public danger, when the public good renders his personal services, the strictest discipline and subordination, nay, even the sacrifice of his life and property, necessary, than he is when surrounded by the sunshine of peace and external security, when he may live at ease, and dwell under his own vine and fig-tree.

There is indeed nothing in the public concerns of states and nations which requires more care and circumspection on the part of the rulers as well as on that of the ruled, than to draw and keep within the precise line of their respective public rights and obligations, so that each may faithfully perform their public duties; for every stretch of power on the part of government, is an incroachment on the civil liberty of the ruled; and every default, with respect to the performance of the civil duties, on the part of the latter,

ter, is an injury committed against the government, a wanton abuse of civil liberty, and an act of licentiousness, ending with the subversion of the state and the destruction of public happiness. There would be cause to lament the incessant controversies on this point between the governors of free states and the governed, were it not that jealousy, distrust and discontent seem to be naturally interwoven in the constitutions of states, and as inseparable from free governments as debilities and sicknesses from the frail constitution of our bodies.

Besides these considerations, it is *internal security*, that is to say, such provisions as are necessary that there be no cause to dread an evil within, that citizens may live peaceably and undisturbed in their persons and property, which naturally incroach upon the liberties of the members. In the multifarious occurrences of life, and among so many and such various clashings of private and social interests, it far surpasses the wisdom and sagacity of human legislators to draw the exact line and to determine with precision where laws are to put a restraint upon the citizen, and where he may be left to follow his own inclination and to be guided by his own discretion. What the soul is with respect to the exercise of our faculties as men, such are laws with respect to the body politic in regard to the conduct of citizens.

To these must be added the various provisions necessary for the *external security* of the state: citizens must be restrained from committing any injury against other states or their citizens, lest the public repose of the state be thereby endangered. As a society cannot enjoy public felicity if it must be in a continual state
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of fear and danger, the citizens must learn the use of arms, and stand prepared to quell an insurrection and defeat a rebellion, as well as to repel an invasion of the state. At such times the citizen must come under military law—must leave all other concerns, solely intent on averting the public danger; he should even make a sacrifice of life, limbs and property at the sacred shrine of his injured country.

Sch. 1.—Behold the various and the necessary modifications of civil liberty, and the great importance of public good! We set down civil liberty first and foremost; for what will all laws avail, what is the power, the splendor of national respectability and grandeur, when the former are the shackles, the latter the bane of citizens?

But what is liberty without the controul of salutary and necessary laws—laws which have public good for their object, and are not the arbitrary edicts of unnatural despotism?—What will liberty, guarded by the wisest and best of laws, finally avail, when there is no care taken for the promotion of public peace and security?

Sch. 2.—Where these three ingredients to the public good are properly subordinated, and so poised that they support one another, the happiness of a state or nation will stand—will be lasting and permanent. To apportion them as times and circumstances require, is the greatest art, the most glorious object in which men can engage. To govern well, to render states and nations happy, entitles rulers to the august distinction of being denominated *Gods on earth*.

Since civil society, whatever the form of its government may be, is by nature equal, and since the nature and scope of that society, that is to say, public happiness, is the standard by which the extent of the public rights and obligations of all the members must be estimated; it follows, that civil society naturally rests on an universal fundamental law, whereby both the rulers
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of states and nations, and the respective citizens under their authority, ought to regulate their conduct.

This fundamental civil law may be expressed in this general proposition: CITIZENS MUST DIRECT THEIR ACTIONS SO THAT THE PUBLIC GOOD, that is to say, THAT CIVIL LIBERTY AND INTERNAL AND EXTERNAL SECURITY MAY BE OBTAINED, PRESERVED AND PROMOTED; AND MUST CAREFULLY AVOID THE CONTRARY.

Sch.—What contradicts this fundamental law is *civilly* unjust; laws and ordinances contrary to it are public grievances, &c.

CHAPTER II.

Of the origin of civil society.

THE origin of civil society, considered as a matter of fact, has given rise to a variety of opinions: but as opinions cannot affect the nature of things, we may lay aside an unprofitable discussion of them, and proceed immediately to the principal point of the controversy, to wit, the enquiry, Whether philosophical deductions, like those of the preceding chapter, rest upon *fiction*, or are founded in nature, are something real and coeval with the multiplication of the human race?—We think reason is on the side of those who assert the latter; for, if the relation of rulers and the ruled is not natural, how can we account for the general reception and establishment

establishment of one kind of government or another, even among the most barbarous nations of the earth? Have not the freest communities among the Indians their leaders? Have they not their head men, who transact public business in the name of their tribes?

Men are prone to counteract both perfect and imperfect obligations: in consequence of this barbarous disposition, life, as well as the undisturbed enjoyment of the things necessary for its preservation, must have become extremely insecure and precarious, as soon as the human race were multiplied to a considerable extent. Necessity, therefore, must have soon suggested the greater conveniencies and security which civil societies and governments afford.

Where is the reason, we may ask, that men, in the early ages of the world, have been so strangely supine with respect to their true interests, and so much more inattentive to their most urgent necessities than their fellow creatures in subsequent days? Experience evinces, that the apprehension of an evil places us in a state of insecurity, and renders our situation unhappy. Is it not the nature of fear to excite men to exert themselves in acquiring repose, peace and safety?

Associations have most undoubtedly derived their origin from the fear of danger. Natural societies, the connubial and parental, have led the way to the herile. The desire of peace and happiness has cemented families under the domestic state; of which the civil is, as it were, the counterpart, with this difference, that the latter is more extensive, and forms the shield under which not only individuals, but families and communities find their general security.

We should not feel that degree of anxiety for opposing those authors who assign, as the first moving causes for civil societies, the lust of power and dominion, or successful acts of violence and rapine, the essential traits of which the experience of ages has not been able fully to take away even among the polished nations of the earth,—were it not that it would seem to leave them the boast of victory, as it were, over the superior power of reason and sound morality: for, decrying the principles flowing from the nature of God and men, from the nature of things and real happiness, as a fiction, they sap the very foundation of political morality, nay, of human happiness. They place the origin of civil society in lawless and unnatural acts of violence and injustice, and thence draw the inconclusive inference, that the rights and obligations of the members of civil society cannot be reduced to stable and unalterable principles of natural law.

History, it is true, furnishes us with frequent instances of states which have had their origin in lawless usurpation: but these instances are so far from proving the insufficiency of rational principles for explaining the true nature of civil societies, that they exhibit powerful arguments for establishing both the right and power of reason in the public concerns of states, as there are innumerable examples of governments founded in injustice and supported by violence, which have either vanished or undergone a series of changes and revolutions, vibrating, as it were, from one extreme to the other, until they have been brought under modifications as near to the principles of nature as the circumstances of the times, the improvements and the genius of the people, or the particular situation of states, would admit.

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Recent instances of this kind are exhibited by the general government of the United States, and of the particular states which compose it—instances which sufficiently shew that it is practicable to establish governments upon the basis of natural justice.

The struggles of the French nation have been considered in the ridiculous light of a visionary dream; but in spite of all opposition, they bid fair to afford us an essential proof, that there is some reality in governments founded on the principles of nature.

CHAPTER III.

Of the different laws, rights and obligations which take place in civil society, and the different capacities and characters of the citizens.

ALL the rights and obligations of citizens have either reference to civil government, or are confined to the concerns which citizens have among one another. In the former case the *rights* and *obligations* of citizens are called *public*; in the latter, *private*.

Persons who are vested with the right of civil government are *public*; those who are under the authority of government are *private persons*.

When private persons are considered in their relation to government, that is to say, with respect to their public rights and obligations, they are contemplated in their *public character*; but when reference is had to the relation which they bear to their fellow citizens, or
when

when their private concerns come into contemplation, they sustain a *private character*.

Public persons may have private rights and obligations, and of consequence, sustain a private character; for instance, the president of the union, the several governors of the United States, &c. have private property, hold real and personal estates.

Those *laws* of a state or nation are *public*, which have for their object the public rights and obligations of the rulers as well as of the ruled; but the *municipal laws* are confined to the cognizance of the private concerns of citizens among themselves.

In short, all *things* in a state are stiled *public*, which have reference to the government thereof: there are such things as *public property*, public concerns, public employ, public stations, affairs, offices, services, &c.

Public persons, or citizens engaged in public service, because they also sustain a private character, are bound to regulate their conduct in perfect conformity to the laws of the land, as far as that obedience does not clash with the weightier concerns of government: for nothing except a higher obligation can excuse the citizen from the performance of the duties he owes to his fellow citizens as men and as citizens.

Hence it appears perfectly consistent with the law of nature, that persons whose services are essentially necessary for the preservation of the public welfare, should not be amenable to the municipal law as long as that necessity exists: as, the general, the officer, the foldier, &c. on an expedition, should not be liable to arrest for debt.

Public persons, at the helm of government, are at
all

all times engaged in public affairs ; they ought, therefore, to be exempted from the power of the municipal laws, as long as their administration lasts. This privilege ought likewise to be extended to the members of the legislature, during its session, and a reasonable time before as well as after it.

A reasonable expectation may be formed, that persons raised to an exalted station will not fail to be as faithful in their private as they ought to be in their public characters.

Those who abuse such privileges to the prejudice of their fellow citizens, carry the mark of public oppressors of the worst kind ; because, under the shield of law, they sacrilegiously defeat its salutary ends.

Sch.—It is an additional argument to prove the propriety of privileging public persons, that it is possible for designing men to throw an obstacle in the way of public proceedings, by vexatious and unfounded actions commenced against public persons.

CHAPTER IV.

Of the invariable scope of all public and municipal laws in a state, the essential public rights, and the correlative public obligations between the government and the people.

SINCE the fundamental civil law requires citizens to direct their actions so that the public good of the state or nation may be obtained, preserved and promoted, it follows, that all public laws of a state, as well as the municipal, must invariably have this desirable end for their object, and that all regulations in a state which
have

have a contrary tendency, are improper, grievous and unjust.

Hence it follows, that government cannot have any public rights which are inconsistent with the liberty of the people. The people, therefore, owe no obligation to such mandates as, in themselves, have a manifest tendency to destroy civil liberty; for such mandates flow not from the public right, but are abuses of the power of government.

Sch.—We say *mandates in themselves*, because it is possible that other and higher obligations bind citizens to forbear. *Vide* p. 32—48, &c.

It is for the enjoyment of civil liberty that government is necessary and civil society instituted: civil liberty is therefore the right paramount of the citizen, to which governments owe all their powers, their existence and authority, and on this account are bound, under a public and most sacred obligation, to respect and protect that right.

Sch. 1.—Civil liberty is that sacred public deposit which is not to be touched with an unhallowed hand: it is the birth-right of the citizen: he who is deprived thereof is not a citizen, but a slave. This great and indefeasible right implies the rights to the necessary means for preserving it against encroachments and dangers. A free citizen has the right to have arms, and is entitled to a free communication of his thoughts: hence the liberty of the press, and hence the right to assemble with fellow citizens in a peaceable manner, for consultation with respect to the concerns of their country.

Sch. 2.—How careful ought citizens to be to preserve these rights! how solicitous not to abuse them, since abuses whether they proceed from or take their rise among citizens, provoke measures of the most dreadful effects and the most fatal consequences!

It is a public obligation in citizens to learn to know
their

their rights: it is from ignorance that the people in many countries have lost their liberty; and it is from that cause why with some it has only existence in imagination and prejudice, whilst such as enjoy it set no value thereon, or become guilty of abusing it to the most outrageous purposes.

Liberty indeed comprehends a vast deal; but the liberty of man is directed by the laws of nature and of revelation; that of the citizen becomes modified and determined by additional restraints, necessary for the internal and external security of the state. To perpetrate injuries against fellow citizens, to invade the just rights of the rulers or the ruled, is not liberty, but the height of anarchy and licentiousness, the greatest evil that can befall civil society. The liberty of the citizen is restrained by necessary and directed by salutary laws.

It is, therefore, a public right of government to enact salutary laws, which are necessary for the internal order, peace and security of the state; and citizens are under the most sacred public obligations to obey them.

Sch.—Behold a striking criterion of a good government and of good and free citizens!

There are likewise public rights, vesting government with a power to make laws directing the conduct of citizens, that they do not injure other civil societies by any acts which are repugnant to the perfect rights of their members, whether they be rulers or the ruled, lest the external security of the state becomes involved in the issue of such a conduct.

Besides such necessary regulations and laws, obedience to which is an indisputable public obligation on the

the part of the people, the government has the public right to order that the citizens be prepared for public defence and war, against an intended or actual aggression; likewise, to regulate and order the mode of conducting the one or the other, to assent to terms of accommodation or pacification, &c.

The citizens are bound to submit to such regulations. To support the state is the greatest privilege, and the principal trait in the character of a free citizen, since that support is the surest mean to preserve the liberty of our country.

- Sch.* 1.—Almost all nations have lost their liberty, because they have intrusted their public right of defence to foreigners, or to a mercenary soldiery.
- Sch.* 2.—Patriotic citizens will not suffer, in learning the military art, that strange indolence or want of discretion, on their part, should give a handle to those who are fond of undervaluing the character of a militia-foldier.
- Sch.* 3.—Whilst, with heart-felt gratitude, we recollect the patriotic and heroic perseverance of the continental army during our glorious contest with Great-Britain, it would be criminal to forget the valour and assiduity of our militia: America has exhibited instances that a citizen soldier is invincible—to recount the noble exploits of individuals would certainly be worthy the pen of historians.
- Sch.* 4.—Let posterity hear, that at the time of Herkemer's battle, which happened the 6th of August, 1777, the valour of one hundred and fifty militia-men, commanding themselves, because their leaders had fallen, assisted by the intrepid and most seasonable fortie of a Colonel Willett, maintained the field against the mixt host of regulars, refugees and Indians, exceeding four times their number. Let it stand recorded among other patriotic deeds of that little army of militia, that a Jacob Gardiner, with a few of his men, vanquished a whole platoon, killed the Captain thereof, after he had kept him for a long time by his collar, as a shield against the balls and the bayonets of the whole platoon. This brave
militia

militia Captain is still alive, and was cured of thirteen wounds. Neither must it be forgotten, that William Wills and John Harper, who at that time of general distress on our western frontiers, when two hundred royalists and Indians had advanced into the heart of Schohary, when treachery, assisted by the panic with which the inhabitants had been struck, had almost accomplished a total defection among the inhabitants, with forty men, collected in a strong brick-house, braved the enemy, hindered the defection from taking the intended effect, and afforded time for succour, by which the whole design of the enemy was defeated, and a valuable part of the frontier preserved.

It is a certain fact, that, after the above-mentioned bloody day, when General Burgoyne's proclamation was sent amongst the intimidated inhabitants of the then county of Tryon, by a flag of truce, composed of a mixed group of run-aways from said county, and of a number of Indians yet reeking with the blood of their benefactors and neighbours—only a few men defeated the treacherous scheme, and prevented the defection of that county, which continued during the war one of our strongest barriers against the western invasions of the enemy. A thousand instances might be given of the valour of militia-soldiers during that contest, which might be adduced in refutation of the reasonings lately communicated by the public papers, as having taken place in a great public assembly. Certainly such men do not know our militia, or have forgot their fellow citizens.

Since, then, civil liberty is, as it were, the result of necessary and wise modifications of all the individual and other social rights of the citizens, by the public obligations, both of civil rulers and the ruled, for the preservation of internal and external security; it follows, that government ought not to put the people under greater restraint than is necessary for, nor should the latter pretend to more freedom than is consistent with, the attainment of these desirable objects.

On the contrary, it essentially interests both the public

public and the private persons in a state, that they join their best efforts for conducting themselves so, that no occasion may be furnished to any persons, whether citizens or strangers, why they should entertain any designs, or enter into any machinations prejudicial to public peace and tranquillity.

The tranquillity of a state or nation may be safe from evil designs against its internal security, when persons either feel no inclination, or have it not in their power to disturb the state: the former may be reasonably expected when there is no cause for the latter, when there are stronger motives against the raising a disturbance.

There is certainly no cause for dreading dangerous innovations when the love of virtue and good order prevails, when the citizens are sensible of their public duties, as well as those which they owe as individuals to God, to themselves, and to their fellow creatures, more especially to their fellow citizens,—when citizens are not only contented with their present condition, but also when there is not any justifying cause for discontent. In either of these cases, those who would be at all events disposed to cause disturbances would be left without even pretences under which discontent and a wanton breach of order might find plausibility or excuse.

Should there still be among citizens such ignoble minds as that considerations of public virtue, of patriotism and humanity do not operate, it will be necessary that they be deterred from evil by laws, sanctioned with ignominious and public punishment. Fear, it must be confessed, is not the most laudable, but it is, notwithstanding, a powerful principle, nay, perhaps the

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only one left against brutal men, whose minds have become too callous and obdurate to yield to the tender emotions of religion, patriotism and humanity.

It is therefore a public obligation in government, for establishing internal and external security upon the firmest basis, that they make use of their authority to order all things in a state in such a manner as to become means for exciting the minds of the people to virtue and patriotism. Such a conduct on the part of the rulers of states and nations cannot fail to impress them with the highest esteem for public virtue, and a due respect to those who exercise it. Citizens who are well informed and sensible of their public obligations, will view disturbances of the public tranquillity in their true light, as evils of the most heinous nature, and the character of the authors and abettors of them as infamous and detestable.

It is a public obligation on the part of government, to order that each class of citizens be usefully employed, and thereby enabled to live comfortably.

Government is under public obligation to use all possible care, prudence, moderation and circumspection, that the private good of individuals, as well as the common interests of the less societies within the limits and jurisdiction of the state, be properly subordinated to the public good of civil society, from which they derive their protection.

It is not only a public obligation of citizens in general, but also of government in particular, that they be extremely careful not to injure other states, lest the external security of the state be thereby endangered.

Since it is a most important public and national obligation

gation to place the state on the surest foundation against foreign aggression and internal insurrection, the government is bound to order all things so that population, agriculture, commerce, arts and sciences may be encouraged and cultivated—that the citizens may be well acquainted with and exercised in all that pertains to the means of public defence.

To crown all, the public rights and obligations, which form the bond of political and national union between the rulers of states and the people, should be secured and determined by wise and salutary laws, founded on the eternal principles of natural justice and equity; and these laws ought to be administered in conformity to the duties which men owe to God, to themselves, and to their fellow creatures.

Let it be remembered, that, as civil society is equal, the government thereof ought to be a government not of men, but of laws;—that to be obedient and faithful to such a government is the highest degree of liberty of which man is capable with respect to public life.

CHAPTER V.

Of the supreme power or sovereignty in a state, and the principal rights of sovereignty.

THE source of all public power in a state is the people; all authority to order and direct the actions of the citizens for the attainment, preservation and advancement of the public felicity, originates in the transfer made by them. The supreme power of the state is

is therefore essentially inherent in the people; but the exercise thereof is transferred to the moral, or public person of the state, whether a king, a senate, or a government that represents the people.

Those rights which immediately flow from the right of civil government, constitute what is called the *sovereignty* of a state or nation: the public person vested with the exercise of such rights is stiled the *sovereign*.

Hence it follows, that, though the sovereignty of a state or nation is originally and essentially in the people, still, when civil government is once established, the exercise of it is the right of the public rulers, as long as that establishment subsists.

The establishment of a government rests upon a fundamental law, known under the title of the constitution.

The sovereigns of states and nations are subject to the constitutions of them, whether they actually exist or are only supposed to exist. Such original compacts between the rulers and the people remain the unalterable rule for the administration of government.

To alter or to change the constitution of a state or nation is, as we shall see, the right of the people.

Sch.—We have already observed, that those states whose governments are not vested with all the necessary powers of sovereignty, are *dependent*.

We distinguish sovereignty into *internal* and *external*: the former might be stiled *political*; the latter *national*.

Internal or political sovereignty comprehends all the rights necessary for the internal concerns of a state.

National sovereignty has reference to other states and independent civil societies.

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Sch. 1.—Since national sovereignty constitutes the character of a nation, it will be the proper subject of the law of nations to investigate the nature and extent of those specific rights which constitute it.

Sch. 2.—But the internal concerns of nations belong to their political character, which is the subject of politics; though authors who have treated of the law of nations, have likewise taken notice of them, because a treatise on that last mentioned subject cannot be understood without just ideas of the political character of nations.

Sch. 3.—Let it therefore be observed, that what has been hitherto explained, together with all that will be said in the sequel on the subject of the political concerns of states, applies fully to nations.

Sch. 4.—Those things, on the contrary, which have particular reference to external security against the machinations and invasions of other states, belong solely to the national character of states.

Since government is instituted for the attainment, preservation and advancement of the felicity of the state or nation, it follows, on the one hand, that the sovereign is not vested with any rights of sovereignty which are contrary to public good; and, on the other, that he is naturally and necessarily possessed of all those without which that desirable end cannot be obtained, secured or promoted.

Sch.—From these considerations a judgment may be formed whether constitutions stand in need of emendations or additions, or whether they deserve the character of salutary fundamental laws.

Persons within the borders and jurisdiction of a state are either citizens or strangers: with respect to the former, the rights of the sovereign are both affirmative and negative; since citizens are bound not only to omit all that is contrary to public good, but must likewise perform those civil duties which are necessary for the preservation of the internal and external peace of the state,

state, and are essential to its public felicity: but strangers not having an interest in the public good of the state, are only bound by negative duties; that is to say, the sovereign can only interdict such actions as are repugnant to the public good of the state. This right the sovereign possesses from the necessity of the case, because otherwise he could not exercise the rights of sovereignty necessary for the preservation of the public good.

Of the various rights of sovereignty, with respect to the citizens of the state, the following may be considered as the principal, because they are essentially necessary for promoting the public good of the society.

1. The right to make and promulge laws for regulating the conduct of citizens.
2. The right to pass imputation upon the conduct of the citizens, according to the direction of those laws; to determine rewards and punishments, and to put those determinations into execution.
3. The right of suspending, altering or repealing municipal laws; and of adapting and modifying natural laws to the exigencies of the state.
4. The right to prohibit all things, and all conduct of individuals and societies, which are contradictory to the internal or external peace of the community.
5. The right to erect courts of justice for the trial and punishment of crimes committed within the limits and jurisdiction of the state.
6. The right of building fortifications and harbours within the territory of the state, to regulate roads, to exclude strangers from access to or from passing through the state, or to grant and modify such privileges.
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7. The rights to make war and peace; to order the mode in which the former is to be conducted, and to assent to the terms upon which the latter may be concluded.

8. The right to prohibit all things which have a tendency to produce evil habits and pernicious consequences.

9. The right to sanction all that may incite the citizens to virtue, and may have a salutary effect upon the manners of the people.

10. The right to order things so that the citizens may be usefully employed and enabled to live comfortably.

11. The right to order that the citizens may learn and be exercised in the military art.

12. The right to prohibit whatever is unfriendly to population.

Upon the whole, the right of sovereignty extends to all that is necessary as a mean for promoting and preserving public felicity.

The assuming rights of sovereignty, which are not absolutely necessary for public good, or, which ultimately amounts to the same thing, the extending the lawful rights of supreme controul farther than is necessary for that end, lead to an abridgement of the civil liberty of the citizens, and must be ranked among those claims which are not founded in natural law.

Rights of sovereignty which are incompatible with public good, though warranted by certain constitutions of states, are in the forum of nature nothing less than high-handed usurpation.

CHAPTER

CHAPTER VI.

Of the resources of a state.

BY the *resources* of a state are generally understood all the means which the government may make use of for attaining, advancing, and particularly for preserving the public felicity.

Since there are innumerable things in a state which may serve for these purposes, it follows, that its resources are not only multifarious, but also, that, by a proper administration of public affairs, they may be vastly increased, as, by a contrary conduct, they may be neglected and diminished.

All the resources of a state are reducible to these two: the *strength* of the citizens and their *wealth*.

Those who place public strength in a vast extent of territory, forget that a country is strong at the rate of its populousness; that a compact, thickly settled territory can perform what may be expected in vain from an equal number of inhabitants spread over a territory too extensive for the public force to be concentrated and brought to act with united efforts. It is union, public virtue and patriotism that supply numbers: it is the hardiness, courage, discipline, industry, œconomy, sobriety,—the progress in arts and sciences, the united zeal to improve the advantages which a country affords into means of private and public happiness, which render a comparatively small state strong and vigorous. Indolence and corruption of manners, on the contrary, weaken a people in proportion to numbers: the more numerous,

numerous, the more extensive will be the contagion, the more incurable the disease.

That country is certainly deficient in the most powerful resources, where luxury supplies the place of sobriety and industry, and where numbers must stand in the room of wisdom, courage, fortitude, patriotism and perseverance.

The wealth of a state, like the strength of its citizens, is a comparative relation. Economy and industry may compensate the want of rich mines, of a rich and fertile soil, and of advantageous sea-ports.

That state is wealthy, where the citizens have the necessities requisite for the subsistence of themselves and their families, and for the means of defending the state.

Money, particularly that of the paper kind, is the representative of wealth; but agriculture, manufactures and commerce are the real wealth of a state, and inexhaustible resources, which will not leave government at a nonplus in the day of public danger.

A state, therefore, where the laws are properly administered, where liberty and virtue reign, where agriculture, arts and commerce are encouraged, will not be defective in men who are ready to stand forth in defence of the state from a true principle of patriotism, and cannot remain destitute of those means by which they are enabled to support and maintain that defence.

Though countries differ in natural advantages, it is the industry and genius of the people that can supply the deficiencies: there is consequently cause why a state should contentedly pursue its own felicity, and banish the idea of conquest.

CHAPTER VII.

Of revenue and the administration thereof.

SINCE government cannot be administered without expence, it is necessary that a portion of the produce of the wealth of a state be allowed for the purposes of government; for government is instituted for public good, and the will and power of the members of a state are transferred to government for the promotion and preservation of that great end. A right to the end implies the right to make use of the means absolutely necessary for that end.

A portion of the produce of the public wealth that may be applied for the purposes of government, is comprehended under the term *revenue*.

The public good of a state therefore requires a revenue.

Since revenues are drawn from the wealth of a state, it follows, that either some public property, for instance, demesne lands, or that a certain proportion of the private property of the citizens, or of goods imported from abroad, be allotted for the purposes of government.

Hence it follows, that the revenues of a state proceed either from public property, or from private property made public, that is to say, allotted to the purposes of government.

It is a right of sovereignty to dispose of the public revenue; for it is public property belonging to the whole

whole state; and whatever belongs to the whole state is under the direction of government.

The disposal of the revenue is not left optional to the sovereign of a state, but must be in perfect consistency with the public good, otherwise a state is injured by its government.

It is one of the most momentous rights of sovereignty, connected with the right of government, to order, in case public property be not sufficient for the exigencies of the state, that a certain quantum of the produce of the property of private citizens, or of the proceeds from imported goods, be appropriated to the purposes of government; that is to say, the sovereign has a right to raise a revenue; for government is under perfect obligation to do all that is necessary for the promotion and preservation of the public good: but obligation to ends implies the right to the necessary means.

Sch. 1.—The exercise of this important right is generally attended with many and great difficulties, as it affects the private property, and consequently the personal liberty of the citizen.

Sch. 2.—It ought to be considered, that nothing which is not absolutely necessary for public good can justify government in interfering with the private interests of citizens.

Sch. 3.—That great care and circumspection is necessary that the impositions should be as light as possible: they must not, therefore, be laid on the necessities of life, or on the manufactories of the citizens, if any other resource is left.

Sch. 4.—That they be proportionate to the abilities of the citizens; that is to say, equally assessed according to the respective circumstances of the citizens.

Sch. 5.—That they be laid on the luxuries of life, particularly on such articles as are imported from abroad.

Sch. 6.—That the collection be the least burthensome and the least expensive possible.

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Sch. 7.—Since, from the principles of nature, it cannot in any wise be made out that a public debt is a national blessing, it is a high and important duty not to anticipate the public revenue, except in cases of absolute and extreme necessity, and then to reduce it as fast as is consistent with public good.

The right to apply public property to the purposes of government is called the *administration of the revenue*.

This right being in its nature a right of sovereignty, it follows, that the sovereign is under perfect obligation to direct the administration of the revenue to the advancement and preservation of the public good; for, as public property is only to be used for those purposes, so it is for public felicity only that private property may be made public.

The right of administration implies the right of establishing the necessary persons and departments, both with respect to the collection and the expenditure of the public revenue.

By *taxation* is understood the determining the proportion of revenue arising from the private property of citizens, or from the proceeds of occupations, importation and consumption of goods, &c.

The proceeds arising from taxation are taxes, customs and excise.

Taxes laid upon real or personal estate are called *real or personal*.

Taxes laid upon lucrative occupations have obtained the name of *licences*.

Taxes laid upon manufactories or articles of consumption, are comprehended under the term *excise*.

Taxes laid upon goods imported or exported are called *duties*.

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The sovereign possesses the right of use and usufruct in the property of citizens as far as the necessities of the state require, but no further.

In a state of necessity, the sovereign may dispose of the property of a citizen, provided he gives an equivalent; for instance, when a certain spot of land is required for a fortification, for a harbour, for public roads, &c.

Since the sovereign has a right to order that the citizens may live comfortably, learn the arts and sciences, &c. it follows, that it is a right of sovereignty to order orphan-houses, schools, colleges, and other institutions to be set on foot, and to draw for these purposes the necessary revenue from the resources of the state.

That state wherein a person is under perfect obligation to execute business of a public nature, is called an *office*; and the persons who are under that obligation are *public officers*.

As such offices are necessary for public good, it follows, that it is a right of sovereignty to institute the offices necessary for the administration of government, and to appoint proper persons to fill such offices.

If the sovereign arrogates to himself other rights than such as flow from the nature of the sovereignty, he becomes guilty of injuring the state.

Sch.—In different states the establishment of the fundamental laws of government may differ; the sovereign of one state may consequently lawfully do what with that of another would be a public injury.

When the sovereign of a state, by abusing the rights of sovereignty, endeavours to oppress the state, he degenerates into a *tyrant*.

Tyranny is therefore not every fault in government,
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not every defect in rectitude of which rulers are guilty, but an intentional abuse of power.

From the oppression of a few citizens that of the whole state cannot be inferred. All the citizens of a state, however, are deeply interested in the sufferings and oppression of their fellow citizens, and justifiable in taking prudent and lawful measures for bringing about a reform and preventing a repetition.

The granting privileges causes inequalities between citizens, and should never be resorted to but in cases where the public good is not attainable without it: for instance; a company may very well have the privilege of a canal, if there was no other mean to have it cut but by their contribution.

Sch.—Privileges should be but of short duration.

CHAPTER VIII.

Of the public obligations and rights of citizens in regard to their sovereign.

THE obligations of foreigners and strangers are of the negative kind, and are binding upon them as soon as they arrive and as long as they live within the territory and jurisdiction of the state. The sovereign has the right to forbid all that is in any wise repugnant to the public good; and strangers are perfectly bound to regulate their conduct so that it be not contradictory to the laws and usages of the land.

But citizens are under the most perfect obligations not only to abstain from all that is contrary to the laws of
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of the land or repugnant to public good, but also to perform all things which the sovereign directs in consistency with that good.

As it would be endless to particularize all the public obligations of citizens, and as it is impossible to determine every particular instance when a citizen is or is not strictly bound to comply with all the regulations and orders which the sovereign of the state has made the general rule for the conduct of citizens, let it be observed, that those public obligations of citizens are in every respect correlate to the just exercise of the rights of sovereignty, and that they deserve the utmost care and attention of every citizen, since the happiness of society depends as much on a faithful obedience to the laws as on a just administration of them.

There are, however, two important duties which deserve to be particularly noticed, because upon the one the internal peace, and on the other the external security of the state is in a peculiar manner depending. The first of these is this: Citizens must exercise their natural rights of defence, war and compulsion, by the authority of the sovereign, and in the mode prescribed by him. The laws of the land forbid personal, but grant ample public relief for all that might be done wrong or injuriously.

It is on this account that no action which has influence on public good should be left indifferent, that the laws of the land should compass all the individual and social concerns of the citizens. There is no danger that natural liberty be curtailed, when salutary, intelligible and beneficent laws and regulations direct the conduct which citizens should observe to one another, when

—when family governments are well directed, and domestic peace and happiness promoted and preserved.

Ignorance is said to be necessary to keep citizens under subjection; but we venture to say, that information will be more beneficial to all the purposes of a happy society: let the citizens know that their obedience to law is the mean of their internal peace and happiness. When a people is blest with a happy constitution, and governed by wise and salutary laws, nothing is wanting but information and experience to convince them of their happy situation, and to render them a virtuous, faithful, peaceable and patriotic people.

The second public obligation of citizens is, that they faithfully support, and courageously defend the state. Let citizens consider that civil liberty is not to be sported with, that it is dangerous to trust it in the hands of mercenaries, and that an armed citizen is invincible.

Rebellion is that state where citizens violently resist the laws and authority of government, and maliciously endeavour to disturb the peace and security of the state, and meditate the overthrow of its established government.

Machinations of that kind are *treason*, *sedition* or *insurrection*, as individuals or associations are involved in designs and actions which have a tendency to raise a rebellion.

Sch. 1.—It is possible that the government may rebel against the people, by endeavouring to overthrow the constitution of the state.

Sch. 2.—However, in the legal sense of the term, rebellion is violent resistance to the measures of government, whether they be right or wrong: the consequence is, that men of the most excellent character, of the greatest public

lic virtue and undaunted patriotism, have been branded with the name of rebels, and have suffered capital punishment: we must therefore make a wide difference between crimes in the sight of unjust laws, and in that of such as are just and consistent with the eternal principles of natural justice.

As citizens are under the most sacred obligations to respect government, and to submit to all salutary laws and regulations issuing from the highest authority of the state and from its subordinate officers; so they have great and indefeasible rights, which are the palladium of their civil liberty. These are,

The right to make remonstrances:

The right to meet in a peaceable manner for the purpose of consultation:

The right to state their grievances to the government, and to make them known to their fellow citizens:

The right to expect redress, if their grievances are real:

The right to expect a prompt and equal administration of justice:

The right to claim and to enjoy the protection of their persons, property, rights and character:

The right to make appeals:

The right to enjoy all the rights and franchises to which citizens are entitled by the constitution of the state.

Sch.—Most of these rights are infringed if the press is not left free.

If the state is invaded by a foreign or domestic enemy, every good citizen ought most cordially to assist in relieving government and the state from imminent danger.

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ger. Every one should offer his life and fortune for the preservation of the state, its rights and liberties. But it is very difficult to determine what line of conduct citizens have to pursue, if the sovereign of a state should invade and persist in wicked machinations to destroy their liberty.

Let it be observed, that a matter of such magnitude and importance, teeming with consequences dreadful in their nature and effects, involving the fate of the present generation as well as that of those who are yet unborn, ought to be coolly and thoroughly investigated; seasonable, proper and respectful representations should be made, and all lawful means pursued in order to bring about a reformation in government, before any step be taken that has any symptom of violent resistance.

Should it happen that all this is in vain,—should the protection of the laws be withdrawn, public justice denied, the absolute natural rights invaded, the great end of civil society wantonly subverted by its own sovereign; what other remedy is left to citizens than that which is pointed out by nature—the return to their natural state, by forming themselves into a new society, under a new government, upon the basis of a constitution calculated to ensure the permanent enjoyment of public happiness?

CHAPTER IX.

Of the different forms of government.

BY *anarchy* is understood that state of civil society wherein there is no government. But where there is

no government, there can be no form of it. Anarchy is therefore justly reckoned one of the greatest curses that can befall civil society, and is stiled a monster in politics.

Sch. 1.—This mortal enemy to public peace and happiness particularly invades free governments when the citizens exchange the honest manners of true republicans for selfish pursuits and the arts of intrigue. Sometimes worshipping as idols the work of their own hands, then impatient of the supreme controul which their free constitutions have placed in the hands of the men of their free choice, they, like theameleon, exhibit complexions surpassing the power of description.

Sch. 2.—Let it be remembered, that it is not the momentary attachment to a party, the wild adherence to a particular form, &c. pursued by administration, but real goodness, a discreet, faithful, active performance of all public obligations, that constitutes the good citizen. Names may be bait for the ignorant and selfish; but the good citizen will look for reality, for merit, parts, honesty and public virtue, and esteem any person who possesses them, whether in or out of office, whether a federalist or an antifederalist, &c.

Sch. 3.—It is therefore difficult to determine whether free enquiries into the conduct of public persons proceed from principles of anarchy, or from patriotism. But so much is certain, that patriotism ought to be guided by wisdom, and shew due deference to government, always observing a proper distinction between men and measures.

Sch. 4.—When I behold the electioneering mania, which begins to grow into fashion, and soon will be of the force of precedent, so that those who come hereafter will take party zeal for liberty, I cannot but see the description of Virgil's monster realized in the complexion of the self-conceited leader, who, like Polypheme, threatens to devour what comes before him. "Monstrum horrendum, informe, ingens, cui lumen ademptum."—The horrid monster, of hideous form, too unwieldy for rational controul, too much blindfolded to controul himself.

Ochlocracy is that state of civil society where it is split into tribunal factions, each claiming and assuming

ing to itself the right of government, and usurping the exercise thereof by violence. Here we are presented with horrid scenes of confusion and public calamity, but with no form of government.

Tyranny and *despotism* are such states of civil society, where the government is seized and continued by usurpation, violence and unjust oppression,—where obligations are laid down as the rule for the conduct of the governed, which depend upon the will and pleasure of the tyrant or despot. These however we disdain to call forms of government, for such governments are contradictory to the dignity of human nature and only fit for brutes. Since there is something in them of uniformity, rule and method, let us call them methodical injustice, methodical rapine and oppression!

Sch. 1.—It has been often observed, that governments and governmental men are very apt to lean to despotism. Want of experience leaves us at a loss whether this phenomenon proceeds from the nature of government, or from the nature of man. We suppose, however, that those come nearest the mark who attribute that effect to both those causes; for it is natural, in process of time, for government to comprehend more and more ends: the consequence will be, that more means, new resources must be found to enable the persons administering government to accomplish those ends. A similar cause incites men to advocate and prosecute the measures which have originated in their own advice.

Sch. 2.—It is generally reckoned a political virtue in statesmen to be consistent with themselves: however ignorant of court morality, we should be apt to reckon it a great token of fortitude if great men would reject systems which they find oppressive: for consistency can only be a virtue where we have been right, a circumstance which cannot always take place in affairs managed by men.

Sch. 3.—Citizens, therefore, who have the choice of public men, should weigh the advantages and disadvantages of a rotation,

rotation, and see which way the complexion of the times and the public good of the state incline.

Government assumes a form when its institutions aim at a public good, and when the will and power for the attainment and preservation of that end are under public direction; for then there is a society, from the nature of which reciprocal rights and obligations flow, and a political union is constituted.

The *essential form* of all governments we therefore place in the transfer of the will and power of all the members of a society: all governments either acknowledge or presuppose such a transfer; and the citizens of all states either glory in this transfer as their birth-right, or acquiesce in the supposition of its having taken place.

Sch. 1.—The doctrine of divine right still has its abettors in several parts of Europe, among protestants as well as among others, and may be considered as a relic of political superstition.

Sch. 2.—So much is certain, that government is necessary for human happiness, and thus far dependent on the will of God, as it is instituted and administered in consistency with the dictates of natural law, and is consequently conducive to the advancement of human happiness.

The different *forms* of government result from the different modifications of the moral person, vested with the will and power of the civil society.

We must beware not to confound with the forms the different *qualities* of government, resulting from the modifications of the will and power transferred, which may be with various limitations, or without any at all.

Governments, according to their qualities, are either *despotic*, or *limited*. Limited governments admit of a variety of degrees.

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The qualities of governments are not essentially connected with their particular forms: despotism may reign in democracies as well as in aristocracies and monarchies: one government may be more energetic, another more weak: in one may be exercised the greatest rigour, in another lenity and mildness.

The forms of government are either *simple* or *mixt*.

The simple forms are the *monarchical*, *aristocratical* and *democratical*.

The monarchical, where an *individual person* is vested with the will and power of the state.

The aristocratical, where a certain class of citizens are vested with the right of government.

The democratical, where the citizens exercise the government by certain public officers appointed by their suffrages. Such were the ancient republics of Greece, and some of these are to be met with among the cantons of Switzerland.

The mixt forms of government may result from the combination of all three, or of two of the simple forms. Thus the kingdom of Great-Britain consists of the king, of the house of lords, and of the house of commons.

Sch.—There are other states of Europe and of Asia which may be adduced as examples of mixt monarchies of the two forms, the monarchical and the aristocratical; as, Germany, Poland, &c.

Representative governments are, where the monarchical, the aristocratical and democratical powers are distributed. Instances of these we have in the general government of the United States, and also in almost all the individual governments of those states. With respect

respect to the former, the office of president is similar to that of the king; the senate correspond with the house of lords, and the house of representatives has the resemblance of the house of commons; with this difference, that as there is no hereditary prerogative in either of the former branches of the American government, but all their dignity proceeds from the suffrages of a free and independent people; so the third branch is not the nominal, but the true representative body of the people; because, chosen by biennial general elections, they immediately depend upon the ballots of the freeholders.

CHAPTER X.

Of the powers of government, and the distribution of them in mixt governments.

ALL the rights of sovereignty in a state have reference either to the right to make laws for the purposes and exigencies of its government—to the right to apply those laws to particular cases and persons, or to the right to put them and the decisions in consequence of them into execution.

These three distinct rights have obtained the name of the three *powers* of government, the *legislative*, the *judicial*, and the *executive*.

In despotical governments and in strict monarchies, as in Russia, Prussia, &c. these powers are inseparably connected with and reside in the individual person who is at the head of the government. The monarch is the lawgiver; he appoints the judges, whose decision ultimately

ultimately depends upon his ratification; and he is finally the sole moral cause that puts the laws and those decisions in consequence of them which meet his approbation, into execution.

The consequence is, that his will and pleasure is the supreme law of the land, upon which the liberty, life and property of the citizen depend.

Though in limited monarchies, or in aristocratic governments of the strict kind, these rights are generally limited and determined by express or supposed fundamental laws, yet there is little security for the liberty of the citizens, since the interpretation of those laws, the decisions in consequence thereof, and the execution of such decisions, are in one person, or in a particular set of persons, who might find it convenient to have an interest different from that of the people.

In mixt governments, these powers are not only determined and defined by fundamental laws and constitutions, but they are distributed among several branches of the government; and thus certain checks are provided upon one another, so that these powers are lodged in distinct bodies of men, as independent of one another as the constitution directs and ordains.

The distribution of the powers of government admits of various modifications, which are best learnt from the constitutions of different countries.

In the government of the United States, the legislative power is lodged in a house of representatives, in a senate, and in the executive, who has, under certain restrictions, a negative upon all bills which he does not approve, but, *ex officio*, gives sanction of law to all approved bills by the great seal and his signature.

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The judiciary is an authority independent both of the legislative and the executive, except that the persons exercising it derive their appointment from those two branches.

The executive, besides giving sanction to all laws which have their constitutional quality, appoints, with the consent of the senate, all officers of government, and exercises the interior rights of sovereignty, &c.

However, lest the executive abuse this power of eminent sovereignty which invests him with the right to sanction public laws and put a negative on bills presented, provision is made, by which bills may become laws without his consent, to wit, when two thirds of the members persist in their determination, &c.

CHAPTER XI.

Of the fundamental law of the state, and the public meetings of the people, together with the modes of deliberation.

THE fundamental law whereby the distribution and exercise of the sovereign power of a state is regulated, and its mode of government in all its parts organized, is stiled the *constitution* of the state.

Since the powers of a state are indissolubly connected with the will of its citizens, in regard of its first cause and origin, it is evident, that the civil society, in its collective or representative capacity, has the exclusive right to make or to alter its constitution.

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When the members of civil society, in their collective or representative capacity, meet for extraordinary public transactions, which relate to the fundamental law of the state, they are said to meet in *convention*.

The civil society is in its *collective capacity*, when, on general notice being given, its members meet in person. Of such as do not meet, a tacit consent is presumed to all that has been agreed upon by the majority met.

Sch. 1.—In ancient republics, which were frequently confined to cities, with a small territory circumjacent, the meetings of the people were of the collective kind; at least such cities took the lead, if they did not assume the right of being the sole constituents of the popular assemblies.

Sch. 2.—As such cities and the limited territories around them had formed republican governments, a mistaken notion has taken place, that republican governments were only calculated for small states, but entirely incompetent to the exigencies of large empires.

Sch. 3.—Since the invention of the art of printing, the means of information have been multiplied, and the communication of sentiments rendered easy through an extent of territory that would have been impracticable in former times.

Sch. 4.—It is on this account that, notwithstanding many abuses, the liberty of the press must be considered a public blessing.

Besides these great advantages, we ought to consider the *representative* capacity of the people as a vast improvement in the art of government; as, by means thereof, the most extensive countries may be wonderfully concentrated, and their public concerns submitted to the collected wisdom of those who are considered as the wisest and best men of the state, because they are chosen by and from the general mass of the citizens.

Sch. 1.—Happy that state in which citizens have franchises so eminently

eminently great, that the government is founded in their own choice, and that frequent elections of their representatives and officers of government put it in their power to correct the evil effects of a mistaken choice: but only happy and likely to continue so, if they endeavour to keep elections, the fountain of public power, pure and undefiled; so that the question is, who is the man best qualified for the post—not the man of party or connections!

Sch. 2.—Is it necessary to invite free citizens to a careful use of these great and inestimable rights? Is it pardonable to neglect them? Should a free citizen, as long as he can exercise this right, neglect any opportunity to do it freely, impartially, unbiassed by party zeal, and firmly determined to take the side of the virtuous and honest candidate?

Sch. 3.—If the fountain is not pure, what can we expect of the rivulets proceeding from it?

When persons, chosen by a majority of voters who have duly met in their collective capacity, assemble for the dispatch of the public concerns of the state, they are called the *representatives* of the people: what is done by them, or by a majority of them, is reckoned to be done by the whole people in their representative capacity, and is consequently binding on the whole state.

If the constitution determines what particular number of persons may proceed to public business, that number is called a *quorum*.

When, upon due notification, a quorum has met, they may proceed to business.

In representative or republican governments, as well as in aristocracies, if any thing is determined, it will be by unanimous consent or by a majority.

Where unanimous consent is necessary, hardly any thing can be concluded, at least the felicity of the society

ciety is to the utmost precarious: this is the case with the government of Poland.

Sch.—Though necessary unanimity in public proceedings generally defeats all attempts to do what is advantageous for the people, yet such unanimity is the most eligible desideratum in all cases where evil is to be dreaded from the exercise of public powers intrusted to the hands of frail men.

The greatest excellence of the British laws consists in this particular, that no accused person can be condemned except by the unanimous consent of his peers. The trial by jury and the liberty of the press are therefore justly reckoned prerogatives of free citizens, worthy to be handed down unimpaired to the latest posterity.

It is therefore wisely provided in the constitutions of governments, that a majority determine.

In a monarchy, all depends upon the directions of the monarch.

Sch.—It is to be observed, that the titles *king, emperor, &c.* are not perfectly synonymous with the term *monarch*: there are kings and emperors who are restricted by constitutions and laws, and far from being monarchs; for instance, the king of Great-Britain, the emperor of Germany.—Russia and Prussia are, what France formerly was, monarchies of the strict kind.

Confederated states are such as are united together, by mutual consent, for the purpose of mutual defence, forming a common interest in conducting such defence, in case any of the confederation should suffer an aggression; for instance, the cantons of Switzerland, and the United States of North-America before the adoption of the new constitution.

It is by this constitution that the United States are consolidated into one general government, so that the individual states retain all those rights of sovereignty which relate to their internal government, whilst the
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rights of national sovereignty are transferred to the government of the union.

Governments are variously limited, by compact, by express or supposed constitutions.

Those which are not limited by fundamental laws are limited by nature; for sovereignty flows from the right of government, and the public good is the ultimate end of this right; therefore, any right assumed and exercised contrary to public good, is inconsistent with the law of nature, the dignity of man, and the majestic will of God.

Despotism is consequently repugnant to the principles of natural law, a monstrous abuse of power in whatever government it may take place.

We shall wave the question, Which form of government is best calculated for the advancement of public happiness? because it is obvious, that customs beget habits, and that what has become habitual seems most natural, and of consequence must be most pleasing. As a father is fondest of his own children, so it is natural that a person is best pleased with his own country and its government; and in either of these cases arguments have little weight.

But, that writers on morality continue to fancy a difference of character naturally more fit for this or that sort of government, is justly matter of surprise; for, human nature cannot change, and that needs must be best which best advances man's improvement in wisdom, goodness and happiness. Let it be observed, that governments intended for the regulation of human conduct must be limited—that of the limited governments, the mixt are most suitable to the moral nature

ture of man, and more favourable to liberty than any simple form—that those citizens are free indeed, who have both the direct and the indirect choice of their rulers—that free citizens will continue to enjoy this blessing, and will doubtless deliver it as an indefeasible patrimony to their posterity, who, it is to be hoped, will be careful to make a wise and good use of their inestimable rights, in order to transmit them from generation to generation, inviolate and unimpaired.

Much depends upon a just and wise administration: a government well administered may and ought to be a public blessing: but to secure this effect, great care, prudence, moderation, watchfulness, firmness, perseverance, &c. are required on the part of the rulers. Things which have but a remote influence on public happiness must not be neglected: the duties of humanity ought to go hand in hand with the most faithful performance of the public duties of their respective stations: what may tend to prevent or to relieve poverty and distress—what may render domestic life just and happy—what may serve to diffuse a spirit of industry and œconomy throughout all orders and conditions of the citizens—what may lead to the promotion of the cause of virtue, and serve as incentives to a faithful discharge of the duties to God, to themselves and to their fellow citizens,—ought to be amongst the first concerns of a government towards the people; because, for these ends the sovereign is vested with such ample, such important rights over the community.

The education of youth, that great and important object of the laws societies, calls for the most solicitous care on the part of the fathers of countries, and ought to

to engage their attention more than the disciplining of citizens for the eventual defence of the country.

It is to government, whatever its form may be, that citizens have a right to look up for relief and redress, for justice, protection and public happiness.

Whatever the form of government may be, so much is certain, that its *power to do good is unlimited*. Those who exercise that right to this end deserve the name of *great and good men*; such are fathers of their country, and a public blessing.

In constituting and establishing the limits of government and the subsequent administration thereof, *two extremes* must be avoided:—If too much power be lodged in any particular branch of government, particularly in the executive, it may materially affect the liberty of the people; if too little, the internal peace of the state, its safety, external security and respectability abroad, must become unstable and precarious.

Much, therefore, is requisite, indeed more than human wisdom can foresee, for securing permanent goodness in a government, however well established.—Standing armies are so far from being a mean for public happiness, even in the hands of the best governors, that in some cases they may be considered as the bane of civil happiness, and in other respects bear the complexion of a necessary political evil, as, like all publicans in a state, they must supply the want of public virtue on the part of the citizens.

If citizens would be faithful to their public obligations, if they would not often place their private interest in the counteracting public good, if they would study public honesty more than is generally the case,—
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the government would not have cause to create an host of dependents, and the public would not be pestered with the irksome attendance of inquisitorial visitants, who might be more usefully employed.

We conclude with this observation, that the citizens of the United States have cause to glory in their free constitutions: if they are supine in making the best, that is to say, a virtuous use of their rights, if they are dilatory or neglectful in the performance of all those duties which the public good requires, the least that can be said is, that they sin against themselves—a sin which, if not the most unpardonable, is certainly the most unnatural.

PART III.

Of the universal Law of Nations.

CHAPTER I.

Of the universal principles of the law of nations and the general rights of national independence.

THERE are states which have in themselves that sovereignty by which they provide for their respectability and external security, and correct or repel incroachments and injuries which might be meditated or attempted against their safety by other civil societies:—There are others again, which make their external security a common interest with some other states, by way of confederation; whilst there are also such as associate for that purpose, under a common general government. In the first case, the national concerns of the people are directed by the immediate government of the state; in the second, the rights of external sovereignty are exercised by an assembly of the confederated bodies politic; in the last, the national sovereignty is lodged in a general government.

Sch.—In the first case, the state itself is a nation; as, France, Russia, Sweden, Venice, Genoa, &c. In the second, the confederation bears the character of the nation; as, the States General of the Seven United Provinces of the Netherlands, and the Helvetic body, or the assembly of the cantons of Switzerland, &c. In the last, the general government represents the nation and transacts the national

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affairs

affairs of those states which have formed the political union; for instance, the German empire, Great-Britain, and the general government of the United States of North-America.

A state, or a confederation or an association of states vested with the external sovereignty requisite for self-defence, have place among the nations of the earth.

A nation is therefore simply defined to be a state externally or *absolutely independent*; that is to say, not subject to the authority, controul, or government of any other body politic.

Sch. 1.—It has been already observed, that the external or absolute independence of states constitutes their national character. Nations may be different in many respects, for instance, in that of the form or the quality of government, of the extent and situation of territory, and of various other relations; but all such things relate to their political character solely, and do not in the least affect their national independence.

Sch. 2.—History furnishes us with instances of nations which have lost their national character. There are states which, for the sake of finding greater security in a confederation or in an association, have transferred their national right: and we have recent instances of states which have shaken off their former dependence and made themselves absolutely independent.

Sch. 3.—Nations, in short, have their changes and vicissitudes, which are obvious evidences of the supreme government of Divine Providence over the affairs of the children of men. They have their rise, progress, full growth,—become stationary,—decline and fall into ruin. Witness the Assyrian, the Persian and the Greek monarchies; witness the mighty Roman empire, &c.

Since absolute or national independence excludes all idea of subjection or subordination it follows, that no *inferiority* or *superiority* can take place among nations.

From this it immediately follows, that nations have

no perfect affirmative right in one another; that is to say, they are not in a social, but in a natural state.

The natural state of nations is *absolute* when they are considered in themselves, but becomes *hypothetical* when they are considered under certain circumstances.

Nations, contemplated in their absolute natural state, have *equal rights*; because they have the same nature, and are equally independent of any authority on earth.

From this it follows, that when the circumstances of nations differ, their rights may differ; but when they are under the same circumstances, their hypothetical natural rights will be the same.

Hence it follows, that nations live in a state of *absolute equality*, or in a state of *natural liberty*.

Sch.—What is permitted in one is also permitted in another; each nation may do what it pleases, provided it commits no injury to another, or breaks not through a public engagement, or does not commit what among nations is reckoned injurious.

No laws, therefore, will apply to the affairs of nations but those which flow from the nature of absolute independence, or such as they consent to by conventional agreement, or those which rest upon the customs and usages followed by civilized nations. Customs among nations may be considered as rules for national conduct, which have the force of conventions resulting from tacit or constructive consent.

Sch. 1.—Hence we may see the propriety of the distinction of the law of nations into *natural* and *customary*. It is true, authors have added a third kind of national law, which they call *conventional*; but that distinction may be considered as unnecessary, since both the natural and the customary laws conspire in regulating the conduct of nations, with regard to the treaties or conventions which subsist or are supposed to subsist between them.

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Sch. 2.—However, as it is not our design to enter into the irksome and extensive field of national affairs, as they are *de facto* conducted by the nations of the earth, and as we confine ourselves to those universal natural principles which shew what nations *ought* to do; we shall wave an explanation of the various conventions which have, or are supposed to have taken place between them, and attend solely to what is called the *immutable* and *universal* natural law of nations.

Since nations are by their nature absolutely independent of any controul, it follows, that they may direct this their independence to their own perfection as they think proper; that is to say, they may claim the right of equality as their *own by nature*.

A nation, therefore, that is disturbed in the exercise of its natural right of equality, is injured.

We may consequently lay down as the *fundamental law*, by which all national concerns are to be regulated, this proposition: NATIONS MUST ACT SO THAT THEY COMMIT NOTHING WHEREBY THE RIGHT OF THE NATIONAL EQUALITY OF OTHERS IS DISTURBED OR INFRINGED.

Sch. 1.—Actions by which the natural right of equality is infringed, amount to national injuries, and are just causes for national defence and war.

Sch. 2.—Actions by which the natural equality is destroyed, deprive a state of its national character and dignity.

Sch. 3.—Such actions may take place either from choice or necessity. The former is the case if states enter into a national confederation with other states, or form a national union under a general government; the latter is generally the effect of conquest.

The right of natural equality to which a nation is entitled by nature, implies all other rights with which it is or may be vested by lawful acquisition; because the latter are lawful property, and it is a hypothetical
natural

natural right that the lawful acquirer or possessor should have the exclusive right of his acquisitions and possessions.

Hence it follows, that the fundamental law of nations rests immediately upon the two principles of perfect laws, which, as has been heretofore explained, command men to *give every one his own*, and carefully to *abstain from doing an injury to any person whatever*.

Sch.—Behold the two infallible criteria by which the conduct, the conventions and customs of nations are to be estimated! The same universal principles which direct the actions of individuals, are the basis and foundation of *political* and *national rectitude*, the *greatest glory* to which states or nations can or ought to aspire.

As it is a fundamental law, according to which nations must regulate their conduct with respect to one another, that they should give every one its own, and abstain from committing injuries; it is necessary, that nations should know one another; for without this knowledge, these duties cannot be satisfied.

The important question therefore obtrudes itself, Who is the nation?

In order to determine this question with precision, it is necessary that we distinguish certain situations and circumstances, which have reference to the political and internal character of nations.

If respect is had to their original and essential national sovereignty, we answer, *THE PEOPLE are the nation, the source and the sum of all national power and sovereignty*.

But if the people are under a regular national government, we answer, *THE GOVERNMENT, whatever its form or quality may be, is the nation, and exclusively vested*

vested with the national rights of sovereignty, so far that no act can be considered as national, which cannot be contemplated as an action of which the national government is in some manner or other the moral cause. Vide page 84 and 85.

Sch.—Let it be observed, that in a treatise on the law of nations, all public rights and obligations are taken as immediately affecting the national rulers or governors: so that in this treatise we take the rulers or the government for the nation.

However, if the government and the people are so far at variance that a majority have declared against the former, an answer to the before mentioned question is difficult. If other nations cannot suspend a determination on this point, which they ought to do, if possible, in order to keep themselves safe and to avoid all interference with the internal affairs of a nation, then they ought to consider THE RULING POWER as the nation; because it must be supposed that those who rule are supported by the majority of the people, in whom the supreme power is originally founded.

Sch. 1.—However just this manner of reasoning may be, and however much it would conduce to the happiness of mankind, if nations would respect it so far as to observe that forbearance which national duties as well as the duties of humanity impose upon them; still the sad experience of all ages has evinced, that this important question concerning national conduct towards a neighbouring nation when fallen into a state of commotion, has never had a fair discussion, or even a hearing, before the tribunal of reason, but always, like the Gordian knot, has been decided by the sword, the *ultima ratio regum*.

Sch. 2.—If natural governments have their powers from the people, it is a strange phenomenon indeed to see this power exercised to their destruction, by the very hand that ought to protect their rights, their liberties, their lives and their property! To see a nation at variance with itself

itself is a pitiful aspect, and its concomitant circumstances and effects are horrid and dreadful.

Sch. 3.—It is therefore a matter of surprise, that national governments so far forget their rights and duties as to make use of that power which is given them for the protection of their respective nations, to augment the calamities of another nation, by unjust interference in what are its own concerns.

Sch. 4.—Were it not a fact often established by experience, we should hardly think it possible for a people, in such cases, to suffer their rulers to abuse the delegated powers by applying them to such horrid purposes. Strange, that a people can be so far intoxicated as to bring the treasure of the nation and the blood of their fellow citizens sacrifices at the shrine of inhuman ambition and unnatural injustice, for the destruction of the dearest rights of humanity!

Sch. 5.—This question is important with respect to the internal good government of the state or nation, and deserves the most serious consideration both of the rulers and ruled, that each party be faithful in the performance of their respective public duties. Passion indeed will not give a rational decision: the democrat and the aristocrat of the present day are pre-determined not to agree. But unprejudiced reason willingly declares for government, as long as the constitution is the invariable rule for conducting its administration, and as long as the rights of the people continue to be held sacred and inviolate.

CHAPTER II.

Of the duties of nations in general.

THERE is no doubt but nations, that is, the rulers of states and nations, are most sacredly bound to the performance of all those natural duties which result from the nature of civil societies vested with national

tional independence; for they are bound to regulate their conduct in perfect conformity to the precepts and prohibitions of the natural law.

Since all natural duties may be distinguished into commissive and omissive, into perfect and imperfect, and into duties to God, to ourselves and to others, it follows, that the duties incumbent upon the rulers of states and nations are either commissive or omissive, perfect or imperfect, duties they owe to God, to themselves, and to other nations.

Sch. 1.—The duties which nations or states, that is, their governments, owe to God, concern the cause of religion and public worship.

Sch. 2.—The duties which they owe themselves are either of a political or national nature, or both alike. The first have reference to those public obligations under which rulers are to promote the internal happiness of a nation; the second relate to its external security; the last comprehend all that concerns both internal and external security; for instance, laws for promoting the internal peace and preventing injuries against foreigners; likewise, the placing of citizens in a proper state of defence for quelling an insurrection, as well as for preventing or repelling an invasion. Hence we discover the propriety of reserving the subject of the political duties of the rulers of states for the law of nations, because a repetition of the same duties may be avoided thereby, and those which are solely national are brought to their proper place.

Sch. 3.—The duties which nations owe one another solely concern national governments, and constitute what in the substance of the term is called the *law of nations*.

The nature of things requires, that a material difference be observed with respect to the political and national duties of the public rulers, as such, and those which are incumbent on them as individuals, or as members of any of the lesser societies.

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This distinction is more especially necessary, because men in an elevated public station forget that they are under the same obligations to perform their duties to God, to their families, &c. as devoutly and sincerely as the meanest of their subjects are held to perform theirs.

Before the tribunal of God, and in the forum of nature, emperors, kings and nobles are but men; there is no distinction but this, that they will be judged according to the faithfulness with which they have performed more extensive duties than fall to the lot of other men. Their station is high, but there is no real cause to envy it, because their duty and their responsibility are great. *To whom much is given, of him much will be required.*

This thought, and the incontrovertible experience that kings die like other men, seem to be sufficient causes why they should fortify their breasts against the insinuating poison of flattery.

Referring, therefore, the rulers of the earth, in their personal capacity, to the best system of ethics—the sacred precepts of the Bible,—we proceed to treat of their public duties, or that line of public conduct which they ought to observe in the administration of the powers entrusted to them for the good of mankind.

CHAPTER III.

Of the duties of the rulers of states and nations with respect to religion and public worship.

SINCE religion is the glory of human nature, and the duty to glorify God incumbent on all men, it fol-

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lows, that the rulers of states and nations ought to direct the public powers entrusted to their care for the promotion of all that has a beneficial and necessary influence on the advancement of the cause of vital religion, of piety and virtue, whereby the citizens may be incited to take motives for their moral actions from the holy ways and perfections of God, so that the whole nation may be united in a sincere desire to glorify their Creator, the Supreme Ruler and Governor of the universe.

As God cannot be glorified if we take not motives for our conduct from the perfections of the Deity, it follows, that the rulers of states and nations must themselves be actuated with an indefatigable desire to conduct their public administration of government in conformity to the ways and perfections of the Most High.

Thus the nations of the earth will be led in the best and most forcible manner to glorify God, if their rulers set them the august and conspicuous example.

Sch. 1.—Directions which are not necessary for promoting the glory of God can seldom have a beneficial influence on the cause of piety and virtue, and are unbecoming a wise and good government: the least that can be said of them is, that they are an idle stretch of public authority.

Sch. 2.—Such as militate against the cause of vital religion, virtue and true piety, are opposed to the manifestation of the glory of God, and an abuse of sovereignty as wanton as it is reprehensible.

Sch. 3.—How careful, therefore, should governments be, that their public proceedings may be no obstacle to so great and good a cause! How solicitous, on the other hand, to do all in their power for its protection and advancement!

Governments act contrary to their public duties, when they apply violent means, or resort to other unlawful

unlawful methods for hindering any of their citizens in the free enjoyment of that religion which they think best calculated for promoting the glory of God and their own happiness: for, that government certainly does not glorify God which assumes a power to judge the consciences of men, and thus impiously usurps what is the sole right of God. He, the Most High, who will not give *his glory to another*, cannot be glorified by acts of public injustice and violent oppression. Such proceedings in rulers cannot be justified on any account; for, besides the just mentioned weighty arguments, they openly revolt against the very nature and scope of civil society: neither is any society naturally lawful, if the members thereof are deprived of their indefeasible natural rights of conducting themselves as free and moral agents, responsible in all their actions to their Maker. No lawful society requires a sacrifice of that nature; and any society which requires it, is unnatural and more than tyrannical.

It is therefore an indispensable duty which the governors of states and nations owe to God, that they protect the citizens in the undisturbed enjoyment of their religion.

It is a question variously agitated among authors on the law of nations, how far that protection extends, with respect to the free exercise of public worship—whether one, two or three religious professions are exclusively entitled to that privilege in preference and perhaps to the prejudice of all others?

Here is pre-supposed, which easily flows from the nature of things, that a certain day ought to be set apart for public worship—a day of rest, where each citizen is under public obligation to abstain from labour or diversions,

versions, whereby the public worship may be interrupted or disturbed.

Sch. 1.—The first day of the week has continued to be this public day among all the professors of Christianity from the resurrection of Christ to the present time. The French only have of late broke through that general conformity, altering times and seasons with an enthusiasm equal to that with which they changed their old form of government. It is to be hoped, that, when that nation is left to think for themselves, they will return from the extravagance of irreligion, and see the vast difference between true religion and stupid superstition, which for a long time has darkened their horizon, so that it is no wonder they cannot see the light of real truth and taste the sweets of pure, heaven-born religion.

Sch. 2.—The Jews adhere to the seventh day of the week as a day of rest, set apart by the Creator, to be kept holy by attending to the concerns of their souls and eternity.

If, then, in a Christian country, that is, in a state or nation where the majority of the citizens profess Christianity, the various sects and professions of that religion respectively attend public worship after that mode which each of them think best, they certainly will not interfere with respect to time, as this is the same among all denominations of Christians: neither can any interference take place in the exercise of public worship, since, in truth, this becomes the more public in proportion to the numbers which participate thereof, and then deserves to be called *national*, when no citizens are excluded from the exercise of solemn worship who can possibly be partakers thereof.

To give any particular persuasion the exclusive right of public worship in preference and to the prejudice of others who have adopted a different mode, in cases where no interference with public worship or public good takes place, is so far from being necessary or naturally

naturally lawful, that, on the contrary, it is a wanton abuse of power, and an error the more fatal, as it has the sanction of the majority of the state or nation for its support.

Sch.—Establishments, as they are to be met with in the European and Asiatic countries, as they are generally managed, must be considered as relics of political superstition, or as measures which the blind enthusiasm and party zeal of superstitious ignorance and bigotted violence have provoked as means necessary to curb the power and influence of a party inimical to public good, or to defend the nation against foreign machinations and intrigues subversive of its government.

Whilst we lament that religious establishments have ever taken place, we cannot but rejoice that the United States of North-America, and the happy concord among the citizens thereof, exhibit a conspicuous argument against all exclusive rights unfriendly to any professor of religion whatsoever.—Yes, as a country whereof the generality of the inhabitants are Christians of some denomination or other, the Christian sabbath is the established day for public rest and for public worship. On this day, all denominations of Christians worship publicly, resort to their houses of worship, approach the throne of the Eternal, each in that mode which appears to them best. Our streets on the public days of worship represent (and may they ever continue so to do!) the beautiful sight of brethren dwelling in unity.

Sch.—The Jew celebrates his own sabbath, and labours under no inconvenience except that which arises from the nature of the civil state—he must abstain from work out of doors on the Christian sabbath, whilst his own is destitute of the sanction of the laws of the land as a day of rest.

Where establishments have taken place, and an inequality has been introduced among citizens, unfriendly
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to their civil liberty, it is the duty of rulers to do their utmost that unnecessary burdens may be done away, and that laws of such a nature may be either abrogated, or restricted in their operation and effects: for of religion it may be said what Christ answered before Pilate—*My kingdom is not of this world.*

As little as it is consistent with the principles of nature to oppress, or unnecessarily to restrict citizens with respect to the exercise of their religion, so little can it be right, that a nation may exile a number of citizens who dissent from what abuse has introduced as the national religion of the land. It is a great question, whether any crime or misdemeanor in a citizen can deserve a punishment tantamount to the deprivation of his domicile, or his country—to his being torn from his dearest connections?—However this question may be ultimately determined, it certainly cannot be a crime to follow the dictates of our own conscience in things which are not repugnant to public good.

Sch.—Should the strange and selfish *ipse dixit* of enthusiasts or hypocrites have such an effect with rulers of nations, as that, to satisfy their pride or interest, the liberty of the meek and peaceable citizen must be made a sacrifice, the most useful and most faithful members of society banished their native country?

Glaring as the absurdity of such conduct may be, still it has been pursued and applauded. The Huguenots were not long since a fatal instance of this tyrannical abuse of power; and France has lost in them more than all her foreign conquests have been able to compensate.

From what has been hitherto explained, it follows, that the different professions of religions in a state are naturally entitled to more than is expressed by the term *general toleration*. As citizens, they are entitled to the enjoyment of all rights which are consistent with the public

public good, and cannot without injury be considered as outcasts and nuisances, who are merely suffered to enjoy rights to which they have no lawful claim.

Sch.—There is no doubt but that thousands would look upon toleration as a great blessing; whilst there are many who would fain sacrifice every thing to escape the fangs of spiritual tyranny and oppression, and to be suffered to exile themselves in order to keep their consciences undefiled.

We return from irksome political casuistry to the general duties which the rulers of states and nations owe towards the Deity. Their authority is given them for the sole purpose of promoting the happiness of the people: they cannot, therefore, remain unconcerned, whether the minds of the people are or are not duly impressed with reverence for the glory and majesty of the Supreme Ruler of nations: they ought, as far as it is physically and morally possible, to employ their authority in the pursuit of all proper and just means for impressing the minds of all with a lively sense of the necessity of obeying the laws of God in truth and in sincerity.

Those things which are physically possible in the hands of government for rendering the performance of duties due to the Deity general among the citizens of states or nations, are, on the one hand, the encouragement of science, and the extending the aid of government to such institutions of learning as serve as general means for improving the minds of the people in true knowledge, which leads to a conviction that it is necessary to fear and to obey God—a conviction without which no service can be sincere, no worship acceptable: on the other hand, a disposition manifested in the public proceedings of government, to favour and patronize the virtuous and upright of every persuasion;

suasion, and an earnest desire to recommend the cause of religion, of virtue, philanthropy and piety, by their own conspicuous examples.

The power of governments is very great—that of doing good has no bounds: it will therefore be objected, that more things are physically possible for enforcing the performance of duties due to the Lord of the universe. It is true, compulsory means are physically possible, and in many countries have unfortunately been employed: oppressions and cruelties have taken place, which are striking monuments of the unfitness of men to rule conscience, of their aptness to pervert the cause of God and religion, and of their proneness to be seduced by a spirit of fanaticism, superstition or stubborn infidelity.

Let it stand as an incontrovertible political maxim, that God has never entrusted to men his cause—that no means, however well intended or qualified, are morally possible, or just and lawful, which in themselves are inconsistent with the idea of religion, repugnant to the dictates of reason, or contradictory to the first principles of natural laws.

How should government have an authority which men cannot and which God will not grant? Rulers of states and nations, who know any thing concerning their duty to God, do not arrogate, impiously arrogate to themselves rights which are the only prerogative of the great Judge of heaven and earth.

They may employ their public authority for preventing and forbidding notorious prophaneness, blasphemy, and other offences of a horrid and abominable nature, by making them cognizable in the municipal laws of the land.

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Let no person object to this as an encroachment upon the consciences of men; for, blasphemy and some other acts of prophaneness are actions so abominable in their nature, so destructive in their tendency, that the government, independent of its being a duty to God, would not do justice to the nation, nor act consistently with the public good, if it should be remiss in restraining the licentiousness of the unruly and wicked, by punishments adequate to the enormity of their offences.

Since persons who can be guilty of blasphemy and abominable prophaneness cease to conduct themselves as men, no injustice is committed when they are arrived at that pitch of wickedness and folly, if restrictions are imposed upon them for securing the tranquility of the state.

Upon the whole, actions of a wicked nature and destructive tendency cannot be treated as a matter of conscience; nor have those who have divested themselves of all sense of moral conscience, and bid defiance to common decency, any claim to its sacred rights.

Sch.—However just and right it is that rulers set their face against any thing which is unfavourable to the cause of religion, and punish offences of a notoriously heinous nature, still great care is necessary that justice be not perverted and suffered to degenerate into cruelty and persecution. Truth hath been more than once cried down as blasphemy: virtue and innocence cannot always secure us against the shafts of slander and defamation. Governments have to take cognizance of overt-acts, which are contradictory to public good: it does not become them to be partizans with respect to particular modes of worship, nor is it suitable to their state to set up inquisitorial authority.

The rulers of states or nations ought to be sensible, that they are accountable to God for all they do in

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their public capacity—that *righteousness exalteth a nation*, and that *sin is the reproach of any people*.

As it is a public duty of the rulers of states and nations to hinder all that is incompatible with public good, it is evident, that government has not only a just right, but is in duty bound to check the progress of doctrines which are in a direct manner opposed to the preservation of that desirable object.

Sch.—If, for instance, persons should preach the lawfulness of, or practise promiscuous concubinage; if they should teach, that it is not right to submit to government, either because it is said that Christ has made us free, or because the persons administering government differ with respect to religious sentiments and external mode of worship, &c.

CHAPTER IV.

Of the duties which states or nations owe themselves.

THE duties which nations owe to themselves flow in a manner so immediately from the first principle of natural law, that for the idea of man we have only to substitute that *public inseparable relation* which subsists between public rulers and the states or nations over which they preside, and draw this general analogical conclusion: ‘The rulers of nations owe those duties in their kind towards the states or nations under their controul, which individual men owe to themselves.’

At this rate, the first duty of the rulers of states and nations will be, that they truly love their people, by doing all in their power to render their state as happy

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as possible. So that the sum of all public duties is the advancement of the interest of the state or nation.

It is therefore an important duty, that the rulers learn to know what is really interesting to the nation, and carefully distinguish realities from the false appearances of national greatness or splendour.

The perfection of a nation is very extensive, complicate and intricate: the care of the rulers of a nation must be extended to the perfection of the souls, the bodies, the external state and the character of citizens, and more especially to the preservation of the national independence.

Besides the protection of the cause and the encouragement of a faithful performance of the duties of piety and virtue on the part of all orders and conditions of citizens, the rulers ought to furnish them with opportunities and means whereby their understandings may be improved, that they may obtain knowledge in all things which may influence their domestic or political happiness—that they may be relieved from and fortified against confusion and error, particularly with respect to what is good or bad, right or wrong—that they may be enabled to distinguish things of great usefulness from those which are of less utility, and from such as are dangerous, sinful, improper or wicked.

They must endeavour to give the will of the citizens the best directions for the pursuit of what is really good and virtuous: for this end, the governors of states and nations have the right to make and put in execution wholesome laws, that the good and faithful citizens may be protected and rewarded on the one hand, and on the other wicked persons deterred from doing evil.

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It is a public duty of the rulers of states and nations, that they use the authority given them for the great purposes of countenancing and promoting all that may render the people wise, discreet and virtuous, and of prohibiting whatever has a contrary effect or a pernicious tendency.

As institutions of learning have generally a salutary effect in making men wise and good—behold the important public duties of national rulers to order that such institutions may be set on foot and well conducted!

Since there is nothing which has a more powerful influence upon the human mind than the hope of immortality, the rewards and punishments of another life; it is evident, that it is a very important duty of rulers to hold forth, in all their public proceedings, their sensibility of their own accountableness before God, so that the citizens may be properly actuated by the force of so great and good an example.

The love which the rulers of nations ought to exercise towards their people, implies the most tender care for the preservation of their lives and health, and the attainment of all things necessary and convenient for promoting these great purposes.

All things then necessary for the support of life, for the preservation of health, and for augmenting natural wealth, are national duties. Rulers are to encourage the arts, agriculture and commerce—to reward the industrious—to provide for the poor and needy—to have a care that the whole body politic may be cemented together by mutual assistance, and to order things so that a harmonious co-operation may pervade all classes and occupations of the people, that they give one another
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that support and vigour which constitute the political life and happiness of a state.

The whole nation in particular calls for the strictest attention on the part of their rulers, to the great duty of political self-preservation.

The life of a body politic or a state consists in its political union; that of a nation comprehends, besides that union, all the rights of absolute independence.

As the rulers of states are in duty bound to secure the community against insurrections and disorder from within, so those of nations have moreover to be careful that the independence of the nation or any part thereof be not infringed, encroached upon or destroyed. The loss of independence is the political annihilation of a nation.

Whatever clashes with the independence of a nation puts it in a state of necessity, which may be absolute, extreme, or respective. *Vide* page 141.

In either of these states, the rulers are in duty bound to use all possible means to avert the danger and preserve the independence of the nation.

Sch.—Hence the rights of defence and war with which rulers are invested by nature in cases of necessity.

Should rulers find no other remedy left to preserve the independence of the nation than to consent to a dismemberment of the body politic, by giving up a fortification, a town, a province, &c. the state of necessity not only justifies, but also lays the indispensable duty upon them to consent to such dismemberment. But to alienate provinces or places on any other account is a stretch of power and a most unnatural and flagrant act of injustice.

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As national self-preservation centers in national independence, it follows, that the rulers of a nation are in duty bound to be careful that the natural right of absolute equality be not insulted or infringed by any other nation whatever.

Sch. 1.—It is therefore of some importance to know to what length government has a right to go in moderation and forbearance, with respect to insolent treatment on the part of other nations,—since, by exceeding the just measure which prudence and other circumstances dictate, the nation may be injured by its own government.

Sch. 2.—Where there is not perfect equality among nations, independence is but nominal, or to the utmost precarious.

This leads to a consideration of the duties of national rulers concerning the character and respectability of the nation.

By the character and respectability of a nation we understand the favourable opinion of other nations concerning the wisdom and energy of its government, and the riches, strength, resources, means of defence, &c. of the state, but more particularly the valour and patriotism of the citizens.

A nation governed by wisdom, where the public rulers respect the rights of other nations, and are tenacious in the maintenance of their own—where agriculture and manufactures flourish—where arts and sciences are cultivated—where love of virtue and order prevail—where a spirit of patriotism pervades all orders and conditions of men—where the means of defence are provided, and the citizens are able and willing to make use of them—where the public revenue is properly applied,—that people stands fair to be beloved at home and respected abroad, and will doubtless conciliate the good will of all other nations.

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We only add, that, as the manners and taste of a nation have a vast influence on its prosperity, it will be an important duty on the part of government to endeavour to give them the most salutary direction, by doing all in their power to instil in the minds of the people a lively sense of true honour.

Sch.—Since the most essential duties which nations owe themselves have been attended to under the head of politics, it may be deemed unnecessary to enlarge here on any further explanation of them.

CHAPTER V.

Of the duties which nations owe one another.

SINCE the duties which nations owe one another flow from the law of nature, it follows, that they may be distinguished into duties of humanity and of necessity.

By the duties of humanity nations are bound to consider one another as societies of fellow men—as so many communities of the universal society of the human race, placed under the government of the Most High, and individually as well as collectively bound to obey his holy will, in rendering one another as happy as possible. National rulers, considered in this light, are bound to befriend other nations—to alleviate their distresses—to cultivate peace as long as possible, and, in cases of necessary defence or war, to exercise humanity, forbearance and moderation.

Sch.—How desirable and happy would be the state of the human race, if the duties of humanity, friendship, good neighbourhood

neighbourhood and benevolence were generally and sincerely exercised amongst national governments!—How fatal is it for the happiness of mankind, that jealousy, distrust, rivalry, ambition, lust of power and dominion, take place of that general benevolence and brotherly affection which would ensure more universal and permanent happiness than all treaties of commerce, amity or alliance ever will afford!

However, as this amiable union of interest and affection between national governments seems to remain among the *pia desideria* of the philosopher and philanthropist,—the time not being yet come for nations to embrace one another as brethren, which they really are as fellow inhabitants of the earth, fellow members of the universal kingdom of the Most High, who graciously dispenses his providential mercies over all the nations of the earth,—it remains for the law of nations to take into consideration the perfect duties which they owe towards one another.

The most general duties of necessity, under which all others of a specific nature, arising from particular relations and circumstances incident to national affairs, may be brought, are the following:—

No nation must injure another, by either actually or implicitly endangering its security.

Nations must give one another their own; that is to say, they must be careful not to interfere in the rights of each other, especially the natural right of equality.

A nation that has become guilty of injuring another must make reparation, lest it give just cause for defence and war, and thereby endanger its own security.

A nation must never resort to defence or war without a just cause: when either becomes necessary, care should

should be had that it be conducted with equity, and not continued beyond the limits of natural justice; that is to say, hostilities must cease as soon as reparation can be obtained and national security re-established.

Nations are bound to stand faithfully to their public engagements, and strictly to observe the stipulations of the treaties which subsist between them.

CHAPTER VI.

Of the natural rights of nations.

NATIONS, as such, enjoy *natural rights*, which are either *absolute* or *hypothetical*.

The absolute natural rights of nations flow from their nature, considered in themselves; that is to say, from the idea of national independence.

Their hypothetical natural rights result from that national independence considered under certain circumstances; for instance, a nation has a right to prohibit the exportation of raw materials out of the country—to permit the currency of foreign coin, &c.

The absolute natural rights of nations might be distinguished into various classes, and these again specified to a considerable extent, if it were our intention to enter into a minute detail of them.

But the general ideas explanative of all the particulars requisite for specific information on this subject, having been already explained, when we treated of civil society, the nature, different forms and qualities

of governments, the distribution of the exercise of political and national sovereignty,—it may suffice to observe here, that all the absolute natural rights of nations center in the free exercise of all the rights of sovereignty necessary for their own internal government, together with the right of absolute equality and national independence, so that no power on earth, no nation, nay, no combination of nations, has any shadow of right to interfere with either the one or the other.

Sch. 1.—Nations have consequently the absolute natural right to change their government, constitution and laws as they please; and other nations interfering, under any pretence whatever, act contrary to the absolute natural right of nations.

Sch. 2.—The republic of France and the kingdom of Poland exhibit scenes of horror and injustice, and show how little the great ones of the earth respect the laws of nature and of nature's God.

The hypothetical natural rights of nations are still more multifarious, according to the great variety of circumstances differently affecting national governments and national affairs.

The most notable circumstances which introduce great and consequential modifications into national affairs, are, on the one hand, a state of peace and public security; and, on the other, a state of war and public insecurity.

CHAPTER VII.

Of the natural rights of public security and peace.

THE hypothetical natural rights of public security and peace rest upon the right of absolute equality: for one

one nation commits no injury against another by enjoying either of those rights; consequently it cannot meet with any disturbance by virtue of any right founded in nature. Hence we conclude, that a nation has a natural right to live in security and peace, when it suffers no disturbance from and keeps itself clear of committing injury against others.

Since rights to the attainment of lawful ends imply the right to make use of all those means which are necessary for those ends, it follows, that nations have a natural right to make use of all lawful means for the preservation of security and peace.

To determine the specific rights of security and peace, attention must be had to the particular complexion and situation of national affairs:—The whole of the enquiry turns upon these two considerations: whether, at the present time and under the present circumstances, certain public proceedings of a nation are means necessary for its security and peace; and whether those public proceedings are lawful.

Sch.—For instance, if a nation erects fortifications, augments its navy, recruits its army, and puts itself in a respectable state of defence, the question will be, Are these proceedings meant for war; is a rupture to be dreaded; or does that nation provide for its own safety?

No nation lawfully provides for its safety that arrogates to itself a controul, right or power over another independent state; because the right of equality is infringed, a national injury takes place, and that nation gives the other a just cause for defence and war.

No nation can lawfully provide for its safety by compelling the assistance of another; for such a conduct would be arrogating a right over an independent nation.

No

No nation may march through the territory of another without its consent; for such a conduct would be usurpation and arrogation of right over another nation.

Sch. 1.—The territorial sovereignty of a nation is co-extensive with its independence and dominions.

Sch. 2.—The republic of Genoa has bravely maintained that independence, and thereby escaped the greatest public calamities, which have been brought on other states by the lawless arrogation of right on the part of the formidable combination of the European powers that has been occasioned by the present revolution in France.

Nations are all independent states, and possessed of equal rights; no natural precedence can, therefore, take place, except that which results from the order of nature: according to this, nations have their beginning, arrive to the zenith of national glory, decline and vanish away. Some are as it were born when others become extinct. If then nature should be the guide to determine rank, it would follow, that that nation is entitled to precedence which is of the most ancient origin.

Sch.—As among individuals, so amongst nations, it is not venerable age always, nor even virtue and wisdom, but power, riches and splendour that determine rank and precedence.

CHAPTER VIII.

Of the natural rights of defence.

A Nation is injured and in a state of insecurity when another either shews an inclination to infringe its rights, or actually disturbs it in the enjoyment of its
national

national independence; for absolute independence, the right of equality, and all other acquired rights, constitute what nations may exclusively claim as their own.

Since a disturbance in what is a nation's own, by the national interference of another, is a national injury, it follows, that in such cases a nation has the natural right of compulsion, reparation, defence and war against any other that becomes guilty of committing a disturbance, an injury, a damage, or any act of intended or actual aggression.

When nations make use of violent means to avert a public injury, they exercise the natural right of the aggressed against the aggressor, and resort to what is called *national defence*.

Since national defence is frequently attended with great risks and losses on the part of the lawful defender; and since the happiest defence brings great calamities on an inconceivable number of individuals, and often on the most innocent citizens of both the contending nations; it follows, that the rulers of nations should do all in their power to *prevent an aggression*; that is to say, to *prevent a national injury*, by using efficacious means, lawful in themselves, but not violent in their nature or consequences, for the purpose of inducing other nations not to entertain a desire or to manifest an inclination to become an aggressor. *Vide p. 189.*

Nations have a right to prevent national injuries, by observing a just conduct towards others, and by putting themselves in a proper state of defence.

National defence cannot be just when it is not founded in a just cause or conducted in a lawful manner.

Nothing

Nothing can be a just cause for national defence, except a national injury, either actual or impending.

Nothing, with respect to nations, can be considered public or national, except what has reference to the national government.

We distinguish national injuries into direct and indirect, and into immediate and mediate.

Injuries which proceed from or are sanctioned by government are *direct*, and *ipso facto* national, if they are levelled against the government of another: those which depend upon the agency of private persons are *indirect*, and may become national when the government *ex post facto* approves of them, or, upon representations made and satisfaction required by the injured government, suffers such representations to remain unnoticed, or withholds that satisfaction which is due.

Those injuries which are committed against the national government are said to be *immediate*, and are in themselves national, if, as has just been remarked, they come from government, or have its sanction; but such as are done to the private citizens of a nation, whether directly by government or indirectly by individual persons, are called *mediate*, and become national when representations from the government of the injured citizens are slighted, and satisfaction, which is due, withheld on the part of the rulers of that nation from which the injury has proceeded, whether it be by acts of their own or by such as bear their sanction, or by the private agency of citizens under their controul.

Thus, even injuries committed by strangers become national when they are countenanced by a national government.

Sch. 1.—From this distinction flow the following maxims of national rights:

The sovereign ought to redress the injuries of the state and protect its citizens.

He ought not to suffer his people to offend other national governments or their citizens.

The faults of individuals are not immediately imputable to the rulers of nations.

Governments that approve or ratify the actions of their citizens against other nations, become the moral cause of such injuries, and consequently aggressors.

An offended nation that has the private person who has been guilty of national offence in its power, has a right to compel reparation on the part of such offender.

National governments offend others if, upon representation, they refuse justice, and make it a practice to connive at the robberies and plunders committed by those under their authority.

Vide Vattel, B. ii. chap. 6.

Sch. 2.—There are no principles flowing from nature which warrant what in the proper sense of the term is called *revenge* amongst nations. Natural justice extends not farther than satisfaction and security. Nations acknowledge no superior tribunal on earth: the inflicting of punishment is, therefore, an unwarrantable usurpation of power, which may entitle a people to the exercise of national ferocity, Gothic barbarity, but not to a national right.

Among national rulers, the same distinction holds good between a breach of duty and between injuries, which takes place in the transactions of individuals: want of respect to a prince is therefore very far from being in itself a national injury. It may, in some instances, justify a similar behaviour, a certain indifference and coldness; but cannot justify violent measures, war and bloodshed, wherein thousands of innocent persons become involved. *Vide p. 178, &c.*

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There is a great variety of national injuries; for nations may have a variety of things and rights which are their own; and there are inconceivable actions, modes and ways in which disturbances may take place.

Sch.—Perhaps all national injuries might be referred to these three heads: injuries against persons, property and rights.

As nations are bound to abstain from all injuries, it follows, that they are sacredly bound to make reparation, either by restitution or satisfaction.

The damages resulting from national injuries may be casual direct and indirect. *Vide* p. 185 and 186.

When a nation causes direct damages against another, the latter has not the right of punishment, but the right of requiring particular security against future machinations of unnatural malevolence; for, as has been said, punishment is contradictory to national independence.

Damages may be also distinguished into great and small, with respect to the effects; but in themselves the internal immorality of a national injury is to be estimated by the standard of the important right of absolute independence, which by every injurious act is infringed.

The right of defence implies a right to compel reparation; for nations have a right to avert as well as to repel injuries. *Vide* p. 186.

Nations, however, cannot be forced to exercise any of these rights; for, as independent bodies politic, they may make such uses of what is their own as they think proper.

They may therefore forbear to exercise, or even remit their right of defence, by a public declaration of amnesty.

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Sch.—It is a question of another nature, whether, in some cases, such forbearance comports with prudence and the duties which nations owe themselves, or consists with that humanity which one nation should feel for the sufferings and safety of another.

Whether a nation chuses to remit or to exercise its right of defence, no third nation is thereby injured.

In the prosecution of the right of defence, a neutral power may be hurt by acts of the prosecutor; but the injury of that hurt must be charged to the injurer.

Sch.—What has been observed with respect to the beginning of acts of violence among individuals, perfectly holds good with regard to national governments; that is to say, not the nation which commences acts of hostility, but that which has provoked them is the injurer, the aggressor. *Vide p. 187.*

Nations have but a limited right of reparation and defence: no more violence is lawful than that which is sufficient to afford satisfaction and security; neither are acts of hostility entitled to any further continuance; for in either of these cases compulsion and defence would be destitute of a just cause; the defender would consequently become guilty of an aggression, and give the original aggressor a just right for defence, as far as the limits of a just and lawful defence are exceeded. *Vide p. 187—192.*

Since these important rights depend upon a just cause for their exercise, it is evident, that national rulers ought to be well convinced of this particular; for violent measures among nations are so dreadful and extensive in their effects, so complicated in their nature, that it exceeds the power of conception to form any idea of the calamities which involve the lives, the rights, the property, the domestic and individual comforts of in-

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numerable

numerable persons of such contending nations. The practice of engaging unjustly, or for a slight offence, in public measures of national defence, cannot but be infinitely heinous and criminal, both in the sight of God and of men.

Sch. 1.—It is true, rulers of nations and their ministers may do infinitely more good than other men, because they enjoy uncontrollable powers and innumerable opportunities for rendering nations happy: but it is also true, that the temptations to make an improper use of those powers are so many and so great, that the situation of such men calls more for pity than for envy. The human soul revolts at the sight of the sacrifices which are daily making at the shrine of insatiable and boundless ambition:—The historic page exhibits more monsters and destroyers of mankind, than fathers of their country, gods on earth!

Let us draw a veil over the imperfections of men, and take a lesson for prudence and moderation, which best suit high stations in life, and constitute the greatest splendour and glory of national governments.

Sch. 2.—When we examine the dreadful combination of powers in the eastern hemisphere, unnaturally formed for what they stile mutual defence, we cannot help lamenting, that among the reasons are mentioned, humanity, the cause of order, of good government, of morality, of religion, &c. as if objects of this nature required such means of violence, or could in any shape justify unlawful interference in what is an independent nation's own right.

Sch. 3.—The unnatural contempt of religion on the part of that devoted nation which has been the object of their persecution may, on the other hand, be considered as a temporary mean of defence against the power of superstition, and that strange mode of supporting or preaching up morality; but a prosecution of such strange sentiments must and will be a cause for endless feuds and animosities, which finally end in dissolution. A nation without religion, what is it? What is a people, warlike and great, that declares against it?

Sch. 4.—With respect to suavity, probable or pretended causes for defence, *vide* p. 190 and 191.

National

National defence may be just with respect to its cause or causes, and still unjust with regard to the mode in which it is conducted.

Sch. 1.—A defence destitute of a just cause can never be just, though it be conducted in the best possible manner; for in itself it is an injury, and a lawless aggression.

Sch. 2.—The present contest between the combined powers and France exhibits, on the part of the former, with few exceptions, instances of regularly conducted defence, whilst the latter have frequently transgressed; witness the mode in which they forced the speedy surrender of posts and garrisons.

A just defence must be carried on, so that the means be lawful and lawfully used; for nothing can be just that is contrary to the dictates of natural laws.

Nations may not make use of assassination, poisoning or perjury; means which in themselves defeat all possibility of security. *Vide p. 193.*

All other means for repelling an invasion, compelling reparation, or guarding against aggression, are lawful, if used with as much humanity as possible, and not further than the right of defence extends.

Sch. 1.—Among the lawful means of defence are reckoned soldiers and officers; a regular, well disciplined militia: they are instruments in the hands of the national rulers to execute the public will of the national sovereignty. This state is lawful on the part of the ruled; nay, their duty, their birth-right, and their greatest glory, when they are employed for the defence of their country: but men who are instruments of ambition, who are sent upon conquest, or given to hire, who fight for no object but their pay,—how degrading their condition! how little comporting with the dignity of human nature! and how inconsistent with a lawful exercise of rights in persons!

We wave entering into the minutiae of subsidies, auxiliaries, &c. because nations have suffered their affairs to become preternatural; affairs which must be supported by remedies of the same stamp and nature.

Sch.

Sch. 2.—There are other means for national defence of an inanimate nature, which are always and in themselves means for defence and war; as, arms of all kinds; gunpowder, with its ingredients, and tools and implements necessary for carrying on expeditions, for standing a siege, or prosecuting effectually the operation of defence. Add to these, ships of war and the materials for building and equipping them, tents, soldiers' cloth, fortifications, &c.

Sch. 3.—Likewise, provisions of all kinds, live-stock, horses, &c. though they are reckoned innocent in peace, may, under circumstances, become means of defence and war: when by the one an army is supported, by the other it is enabled to take the field. When a place is blockaded or besieged, live-stock and provisions enable the defenders to hold out. Other things, as, waggons, horses, &c. serve to facilitate the movements and various operations of defence and war.

There are cases where a nation comes under a state of absolute or extreme necessity,—where the outrageous behaviour of an aggressor or invader renders necessary the use of means for defence, which in no other state would be lawful.

This leads to a consideration of the nature of the laws of *retaliation*, of *retortion*, and of *reprisals*, and the objects of them.

By *retaliation* we understand public proceedings, whereby an unreasonable and outrageous aggressor is made to suffer exactly so much evil as he has done.

Sch. 1.—If an aggressor burns towns, wantonly maltreats and unjustly detains the persons, or destroys the lives of citizens, sacrifices their property, &c.

Sch. 2.—These are cases where the injurer transgresses the law of nature, and a question arises, whether unlawful proceedings of one nation justify another to proceed to public acts of injustice?

Sch. 3.—The principles of natural justice declare against this mode of defence, except in cases of absolute necessity, of which the common saying holds good, *necessity has no law*.

There

There is a possibility for a nation to do itself justice, by exercising the right of reparation, in seizing on the things that belong to the injurious nation, and retaining them until just satisfaction is made.

Likewise, the aggressed nation may take from the nation guilty of aggression those privileges which it enjoys in the dominions of the former.

The law of *retortion* entitles a national sovereign to treat the subjects of another in the same manner as the latter treats the citizens of the former.

Reprisals are used between nation and nation to do justice to themselves, when they cannot otherwise obtain it. If a nation takes possession of what belongs to another, or refuses to pay a debt, repair an injury, &c. the other may seize and apply to its own use any thing that belongs to the nation thus aggressing, and may proceed in this manner till it has obtained full compensation for interest and damage; or it may retain the property so seized as a pledge till ample satisfaction has been made.

Sch. 1.—Effects seized must be preserved while there is any hope of obtaining satisfaction or justice.

As soon as that hope is lost, they are confiscated, and then the reprisals are accomplished. This takes place upon a rupture between nations and the commencement of hostilities.

Sch. 2.—Reprisals are only allowed by the law of nations upon a cause that is evidently just, or for a debt that is extremely clear.

No force can be lawfully applied by a nation, without knowing whether the other is or is not disposed to do it justice.

Sch. 3.—Room is likewise left for reprisals where an adversary refuses the means of bringing the right to proof, or artfully evades it.

The

The objects of reprisals are either the public property of the nation, or that which belongs to the private citizens thereof.

An exception must be made as to things which are a deposit trusted to the public faith; for the confidence placed in the public faith of a nation ought to be respected even in case of an open war.

Government ought to indemnify its citizens who suffer by reprisals.

The sovereign alone can order reprisals.

Reprisals cannot be lawfully granted in favour of foreigners; for a nation has no right to set itself up as a judge between other nations.

If private persons have given room for just reprisals, they ought to be compelled by their governments to recompence those on whom such reprisals are made.

Justice is denied by a refusal to hear complaints—by not admitting subjects to establish their rights before the ordinary tribunals—by affected delays—by a judgment manifestly partial and unjust, &c.

Nations may detain the citizens of one another by way of reprisals, and not release them until satisfaction is received. Reprisals of this kind extend not to life or corporal pain; for such proceedings are the effects of retaliation, and only allowable in a state of absolute necessity.

When a nation makes just reprisals, it prosecutes its own right, commits no national injury, and gives not a just cause for war. *Vide Vattel—Law of Nat. B. ii. chap. 18.*

CHAPTER IX.

Of public war.

VIOLENT public defence is so nearly allied to public war, that nothing more is required to constitute the latter than for the former to become reciprocal.

Public war, therefore, may be defined to be that state where national rulers reciprocally resort to the exercise of what really is, or is deemed the right of public defence: it is that state in which nations commit violence against one another, determined to repel force by force, in the name and by the order of the public power.

Public peace, on the contrary, is that desirable state of nations, where no reciprocal injuries have taken place—where no nation is looked upon as an aggressor, and where every one abstains from acts of violence.

Sch.—For further elucidations on this subject, *vide* p. 196—199, with this exception, that what there applies to the conduct of individual persons, is to be taken in reference to nations and national rulers.

Nations have a natural right of making war, if there is no other remedy left for repelling an unjust aggression; that is to say, if they cannot without it enjoy peace and security; for the natural rights of a nation cannot be defeated by the lawless resistance of an aggressor: if this were the case, there would be no moral possibility for government to direct what is a nation's own to the attainment and advancement of its public happiness: a tame submission on the part of rulers of nations would
consequently

consequently be a conduct contradictory to the first principle of the law of nature. Hence it follows, that it is so far from being naturally unlawful for nations, under such circumstances, to make war, that, on the contrary, it is their public duty so to do, whenever another nation unjustly and maliciously disturbs the free enjoyment and lawful exercise of their natural right of absolute equality.

It is evident from the nature of national independence, and the natural relation of nations, by which they are societies of fellow men, fellow citizens of the world, that each should enjoy its own, undisturbed by any power or authority on earth; that is to say, live in peace and security. The right, therefore, which a nation has for the enjoyment of public peace and security, is absolutely natural and inseparable from the national sovereignty of states.

But it is otherwise with respect to the rights of violent defence and war; they pre-suppose some facts or public acts on the part of other nations, to wit, interference or disturbance in those things which are at the free disposal of a nation for the ends of its political existence, prosperity and independence. The natural state of nations, therefore, is not a state of war, but a state of peace. *Vide* p. 199 and 200.

From the nature of the rights of peace and of war it is evident, that no right of public war can take place without previous disturbance, of which a national government is in some mode or other the moral cause; for, where there is not a national injury either actual or impending, there can be no room for the public exercise of the rights of compulsion, reparation or defence.

That

That war is *just* which has a just cause and is justly conducted: public war, on the contrary, is *unjust*, when it is destitute of a just cause, conducted in an unjust manner, or protracted to an unlawful extent.

A war which really proceeds from a just cause, that is, from a national injury and disturbance, may become unjust with respect to the mode, manner and extent of its being conducted.

An unjust war may be justly conducted; that is, the proper mode and manner preserved which comport with the limited and restricted rights of compulsion and violent defence, or are sanctioned by the customs and practices of the civilized nations of the earth; but being founded on an unjust cause, can never become just.

Sch.—What has just been said of the various causes of defence, and what is remarked of wars destitute of just or resting upon suafory causes, in the several *scholia* at the bottom of page 200 and in the beginning of page 201, is fully applicable to the public wars of nations.

Acts of aggression ought to be very well ascertained, lest nations become guilty of inexpressible mischief—of transgression against the dictates of natural law—of rebellion against God.

As soon as acts of mutual violence or hostility are begun, or war is declared, the nations at war, that is, the aggressor as well as the aggrieved, are stiled *hostile enemies*.

Sch. 1.—Hostile enemies must be distinguished from those that bear us ill will.

Sch. 2.—That nations are not hostile enemies is not a sufficient proof that they are friends and well wishers.

Sch. 3.—There is no such thing amongst nations as *natural enemies*; for if their territories, their commerce, &c. are

so situated that interference, or what is called *rivalship*, may easily take place, there is no cause why they should injure or hate one another; on the contrary, such situations are forcible reasons why they should cultivate a good understanding, harmony and peace.

Acts of hostility should always be preceded by a formal declaration of war; because, national wars teem with innumerable calamities, in which private persons, even the citizens of neutral powers, are involved:— Besides, according to the principles of nature, violence cannot be lawfully made use of, till other means have been found ineffectual for preventing an open rupture.

The distinction of war into defensive and offensive, has reference to the cause as well as to the operations of a war.—For further particulars concerning this different relation—for satisfying the enquiry, whether an offensive war may be just? and for determining concerning the changes of operations, *vide* p. 201 and 202, together with the *scholia* 1, 2 and 3 of the last mentioned page.

How nations are bound to cultivate peace as long as possible; when and under what circumstances they should make resistance; how and by what means they ought to endeavour to gain the good will of a nation that is not favourably inclined; what care and prudence are necessary, that preparations for putting themselves into a proper state of defence or that forming alliances provoke not acts of aggression, upon the principle of an intended or impending injury, so that no pretext may be given for exercising the right of defence,—may be collected from what has been explained heretofore, under the chapter of the rights of defence and of war, particularly pages 202 and 203, with the two subsequent *scholia*, which begin page 204.

The

The rights of war are naturally limited by the rights of reparation and security.

A nation at war with another has a right to make use of all things which are natural, direct and necessary means for the security of national felicity and independence. That right extends to all manner of violence by which the power of the enemy may be weakened, the adversary rendered unable to make further resistance, and induced to consent to equitable terms of peace; except, as has already been observed, acts of violence unnatural in themselves, as, poisoning, assassination and perjury: for it is a nation's natural right to enjoy its own, undisturbed by another, and to live in a state of external security. As long as a hostile enemy is able to carry on the war with vigour, he will continue his resistance; and that security cannot be expected; but when deprived of the means, when weakened to that extreme that he cannot prosecute his views with vigour, he will consent to terms of pacification, and the nation which has been the object of prosecution will enjoy that peace and security without which a community cannot be happy.

All violent measures, though they be naturally lawful in themselves, become unlawful when they are not necessary for obtaining just reparation and full security.

With respect to the persons and things which naturally come under the right of war, the customary law of nations determines in detail, and extends that right to all persons and to all public and private property of the enemy: but the principles of natural law determine according to this maxim, *that it is neither wise nor lawful to make use of means which are not absolutely and directly necessary for obtaining a lawful end, particularly in cases where*

where such means are grievous in their operation, and where they affect the innocent as well as the guilty.

Upon the strength of these principles we make a distinction between persons and things which come under the right of war in a direct and in an indirect manner.

Persons and things which come under the right of war in a direct manner are,—persons in arms, belonging to the army and public force of the enemy; war-like stores, ammunition, magazines, fortifications, ships of war, &c. in a word, all things which are the principal among those that the custom of nations has stamped with the appellation of *contraband* goods.

Things of an enemy thus coming directly under the right of war, are liable to seizure and appropriation, and, if these expedients are impossible or inconvenient, even to destruction.

Sch.—Such as are the property of subjects of neutral powers are liable to seizure, and, upon adjudication consonant to the customary laws of nations, may be appropriated.

How far the right of war affects the life of persons who bear arms or are part of the enemy's active force, cannot be determined with precision, unless we distinguish the various stages and other circumstances attending the operations of war.

In an engagement, that is to say, in that state where enemies actually contend for victory, the right of war extends to the life of persons in arms, if there is no other mean to obtain security and to satisfy the duty of self-preservation; for during that period the parties are in a state of absolute or extreme necessity.

When victory is obtained, and persons surrender themselves, the right of war does not extend to life,
if

if security can be obtained by confining the conquered as prisoners.

Persons who do not bear arms, do not come directly under the right of war; their lives ought to be spared, and their persons protected: but they may be secured, either by imprisonment or by oath of temporary allegiance, as the security of the adversary renders the one or the other necessary. To treat women and children, aged persons, &c. with severity, or unnecessarily to molest them, is consequently naturally unjust and barbarous.

Private property, or public buildings and public records, are entitled to protection, if a contrary procedure is not absolutely necessary for prosecuting the war or enjoying security.

Nations who take no part in the war of belligerent powers, and favour no party more than another, abstaining from all interference, except that they equally tender their good offices for a reconciliation, are styled *neutral powers*, and as such are entitled to the *right of neutrality*, which extends to the government as well as to the people under its controul, and entitles them to the free enjoyment of their independency and of their lawful occupations, commerce, &c.

As long as a neutral nation and its citizens observe strict neutrality, so long their persons and property do not come under the right of war.

Neutral powers have a right to protect their citizens in the enjoyment of the right of neutrality: they are in duty bound to enjoin on them a forbearance from acts of partiality, whereby either of the belligerent parties may be injured: they ought to prohibit the supplying either party with contraband goods, &c.

Provisions

Provisions carried by the subjects of a neutral power to a place besieged or blockaded, forfeit the right of neutrality; and such goods, perhaps the vessels also, become justly liable to seizure and confiscation by the power that carries on the siege or has instituted the blockade.

Neutral powers may involve themselves in war when their governments favour one party more than another, without a just and preponderating cause.

Nations which are bound by alliances previous to a rupture between belligerent powers, cannot be compelled to break through their public engagements: they consequently remain neutral, if they do not exceed the clear and pointed stipulations of such previous treaties.

CHAPTER X.

Of the rights of the victor.

BY *victory* we understand that state between contending forces, wherein one party is so far reduced as to be incapable of making farther resistance.

When engagements are *decisive*, they will end in the victory of the fortunate party, who, as victor, has certain rights over the vanquished in his power; which rights, though in themselves the natural result of war, may with propriety, and for the sake of perspicuity, be called the *rights of the victor*.

In order to determine the rights of the victor, a distinction is to be observed between *temporary* and *final victory*: the former ends particular engagements, and
in

in the course of a war is often changing sides; but the latter puts an end to the farther prosecution of acts of hostility, and generally induces both parties to make peace.

The rights of a victor during and after an engagement do not extend to the lives of the vanquished in his power, if in any possible mode he can put himself in a state of security: for farther effusion of blood would be destitute of a just cause.

The victor may keep the vanquished prisoners; he may confine, enlarge or parole them, as his own safety requires or admits.

Prisoners ought, therefore, to be protected against abuse and unnecessary rigour, and supplied with provisions: humanity requires their situation to be made as easy as possible, consistent with the safety of the victor.

The victor has the right to secure himself against all those persons of his adversary who have not borne arms; as, infants, women, aged persons, &c.

In case of final victory, the victor has all those rights against his adversary, both with respect to persons and things, which flow from and are warranted by the rights of reparation, defence and security.

If these rights are satisfied, and the national injuries cease—if the damages are repaired, and the victor enjoys security,—there is no longer a just cause for war: farther hostilities consequently become naturally unlawful, and the victor ought to consent to equitable terms of peace: because, it is the nature of a just war to be absolutely necessary for the enjoyment of security and peace; and the scope of lawful proceedings is, that thereby these desirable ends may be obtained and secured.

Sch.—Other things concerning the facilitating measures for moderating the calamities of war, and for proposing terms of capitulations and pacifications—for concluding truces and armistices—for complaining against outrages, according to the customs of nations, &c. by trumpeters, flags of truce, &c. come properly under the customary law of nations, and are not essential to the subject of this treatise.

CHAPTER XI.

Of national intercourse.

FROM the natural rights and duties of nations to one another hitherto explained, it is evident, that nations are often under a necessity to transact public affairs with one another: there ought, therefore, to be perfect liberty for each nation to lay before others its requests, complaints, and other public concerns for its own prosperity and security.

This natural liberty, which is essential to the state of absolute equality, is styled the right of *national intercourse*.

As it is inconvenient for national governments to meet together, and impossible for the mass of the people to hold such an intercourse, it appears, that the only mean left is, that persons be publicly delegated, and sent to transact the public business of the nation with the government of the other.

Since persons sent for managing the public affairs of a nation with the government of another bear the general name of *legates*, it follows, that the rights to send and to receive legates are exclusive rights of national sovereignty, which, in times of internal peace, is always lodged in the national government, but often becomes

becomes doubtful, when a revolution is taking place, and the national controul assumed by one part of the people and contested by the other.

Sch.—In cases of unavoidable necessity, the ruling party may be considered as the persons who exercise national sovereignty.

When a legate is sent by one nation, it becomes a duty on the part of that to which he is sent to receive him.

The person of a legate is sacred and inviolable; for he transacts the concerns of an independent nation, is its public minister, and in some way or other its representative.

The inviolability of a legate chiefly imports liberty of speech, security of person, and the particular privilege of not being amenable to the laws of the land.

These public rights of a legate flow from the principles of nature, and from the very nature of the public business of nations, both with respect to the one which sends him, and that to which he is sent: because, the public concerns of nations involve obligations so high and important, that in cases of collision inferior obligations must give way.

If a legate behaves improperly or injuriously to the nation to which he is sent, such nation has no right to punish him, but can desire his recall and demand satisfaction from his principal.

Sch.—In case of absolute necessity, the principles of nature warrant the imprisonment or safe-keeping of an injurious legate; for in that state a nation has a right to secure itself even against the nation which sent him.

If a nation refuses compliance with the just demands of another concerning the insults or other injuries of

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its public minister, the latter has a right to consider such refusal as an injury directly proceeding from the government which such injurious delegate represents.

Sch.—The treatment of delegates and their behaviour may consequently become means for involving nations in violent measures of defence and war.

The privileges of a delegate being so great, his mission and reception so important, and the business itself intrusted to him of national consequence; it is evident, that no person can have a just claim to the character of a legate, who is not furnished with and who does not produce sufficient documents, which accredit and testify his public mission. Such documents have obtained the name of *credentials*. Legates must therefore have sufficient credentials, and produce them, before they have any right to the privileges which appertain to a public minister at the court of a sovereign nation.

The customary law of nations has introduced various and different characters, and applies different appellations expressive of them, to public ministers, who, as such, have equal rights with respect to the object of their mission, which is the management of the public concerns of their principals; but, according to those distinctions, they have a different rank among the public ministers of other nations at courts where they reside.

Sch. 1.—Legates, according to these distinctions, are styled *ambassadors, ministers, envoys, charges des affaires, residents, &c.*

Sch. 2.—Consuls have to attend to the commercial interests of the people: they are consequently public persons appointed and sent by government; but as they do not transact the affairs of national sovereignty, they, as public persons, are entitled to certain rights and privileges, but not to the inviolability of legates.

CHAPTER XII.

Of the hypothetical natural rights of nations with respect to treaties.

NATIONS enjoying absolute independence have naturally no other affirmative rights in one another, than those which are of imperfect obligation. All their natural perfect rights are negative; they must not injure one another, and are bound to give every one its own. If, therefore, they would obtain perfect affirmative rights in one another, they must do it by lawful acquisition, founded on a just title and resulting from a lawful mode, by which rights in things or in persons may be acquired.

There being three modes of lawful acquisition, to wit, by forfeiture, law, and pact; it follows, that nations have perfect affirmative rights in one another, either when injuries and damages are committed, or when their right of equality is infringed; or they obtain such rights by the dictates of natural law, if a contrary conduct would prove to be an injury and cause damages: for instance; if a nation, fired by ambition, attacks without cause, solely from motives of aggrandisement and conquest, a neighbouring power, there is sufficient cause for a nation to consult its own safety, and to insist on the trespasser's forbearance; and, in case such claim of right is slighted, it has the further right to join and assist its neighbour, and to make a common cause with him against that nation, which must be considered as a common enemy, nay, as an enemy to mankind.

Sch.

Sch.—The rights of forfeiture and law are the foundation of the rights of defence and war.

But a milder and more humane mode by which a nation may acquire perfect affirmative rights in another, is the mode of acquisition by pact.

Pacts among nations are stiled *treaties*.

Treaties are concluded by the national sovereigns, or by means of public persons, specifically vested with mandatory powers given for such a purpose.

Treaties comprehend promise, consent, acceptance, transfer.

In treaties, the promise and consent must be both lawful and fair; the acceptance and transfer explicit and well ascertained: no ambiguities should find place; no stress should be laid upon certain modes of leaving room for different interpretation and disputes concerning the *casus fœderis*. Proceedings of this nature should be far from the rulers, and are derogatory to the dignity of nations.

In all things where an actual collision takes place, prior treaties supersede those of subsequent date.

Sch. 1.—It is a great question, whether treaties are for the advancement of the happiness of mankind, or for the good of a nation?

Sch. 1.—To determine this question, we have to observe two things: first, that nations, upon the strength of the duties of humanity, owe one another friendship, assistance and mutual good offices; and that self-interest will forcibly prompt rulers to sincerity as much as can be expected or is commonly experienced from them: secondly, that by each treaty, nations part with some rights of absolute independence.

Sch. 3.—Perhaps it may be objected, that they gain more by having a perfect claim, founded on the strength of treaties, than if they were still vested with those rights of absolute independence.

independence. In treating of politics, we asserted, that the citizen is in a far more eligible condition, than the individual who has not parted with any of his absolute natural rights; because, the whole strength of the state is his protection, and the will of the community his guide; his interest is secured in the participation of the public good, sanctioned by the public laws of the land. But,

What can a weak nation expect, when it has to cope with a powerful state with which it was on friendly terms, but which proves to be insincere and perfidious? How often have treaties been explained away, evaded, broke! How often have they been the means of laying a foundation for a new war! How liable are their operations to cause ruptures between the parties, or between either of them with its neighbour!

Sch. 4.—Let us therefore conclude, that nothing but necessity should induce nations to enter into treaties. Happy those nations which, like the Chinese, can keep themselves unshackled! Happy those which, as they cannot avoid following the customs generally adopted, confine themselves to treaties of amity and commerce! In times of commotion among the nations of the earth, they can maintain the character of fathers of their people, securing to them the rights of peace and neutrality: they bid fair for being respected as neutral powers, as they are not bound to allow one party that which by solemn stipulations they must refuse the other.

Sch. 5.—Instances of the difficulties under which nations may be placed upon the rupture of other states, we have experienced amongst ourselves, in the present contest between the powers of Europe and the first ally and friend of the United States of North-America.

When treaties are concluded, they ought faithfully to be observed: nothing is more pernicious to the common good of mankind, nothing more disgraceful to a nation, than the guilt and well-merited imputation of perfidy.

Perfidy amongst nations is a national injury, and is a just cause for defence and war.

Ruptures

Ruptures between nations may be, on the part of the injured defender, a just cause to break through all former stipulations with the enemy, provided they are not in their nature a kind of public trust, which, both with respect to national governments and their citizens, should be kept inviolate:—Still, all engagements which nations at war have entered into during the course of such war, whether by themselves or by persons delegated for that purpose, or by certain officers, who, by virtue of their trust and commission, have the power to stipulate in name of the national sovereign,—ought to be performed most faithfully, and with the strictest punctuality and exactness: for, an enemy cannot forfeit a right that was given him as such, by prosecuting acts of hostility and violence; and, as such engagements are necessary to mitigate the horrors and calamities of war, a party that proves perfidious in such case must be considered as a monster in human shape, as an enemy to humanity.

Sch.—We may here advert to truces and armistices necessary for acts of humanity; as, burying the dead, concerting measures for reconciliation and peace, &c.

Nations form treaties by mandataries, strictly and specifically qualified for pledging the faith of the sovereign.

He who claims the right of a mandatory must shew specific powers from the national government.

The sovereign is bound to all that is lawfully stipulated by his mandatory.

Officers of government, particularly those of the army and navy, are vested with powers which involve the right of mandatory trusts: for instance, a general treating

treating for supplies, officers entrusted with the command of fortifications, &c. Their engagements are public, because, without such a power they could not serve their country.

Treaties cease in a manner similar to that in which pacts terminate. *Vide* the latter part of *chap. viii. part. 2*, of this treatise.

CHAPTER XIII.

Of the territory and jurisdiction of nations.

NATIONS inhabit a part of the globe, they consequently possess a territory.

Nations may acquire territory by occupancy, by conquest upon the principle of forfeiture and law, or by treaties.

The territory of a nation may be enlarged by accession, according to the principles formerly laid down with respect to the various modes of acquisition of property, or right in things.

As far as a nation's territory extends, so far extends its jurisdiction; for, not to have jurisdiction in its own territory would amount to a dependency inconsistent with the right of equality.

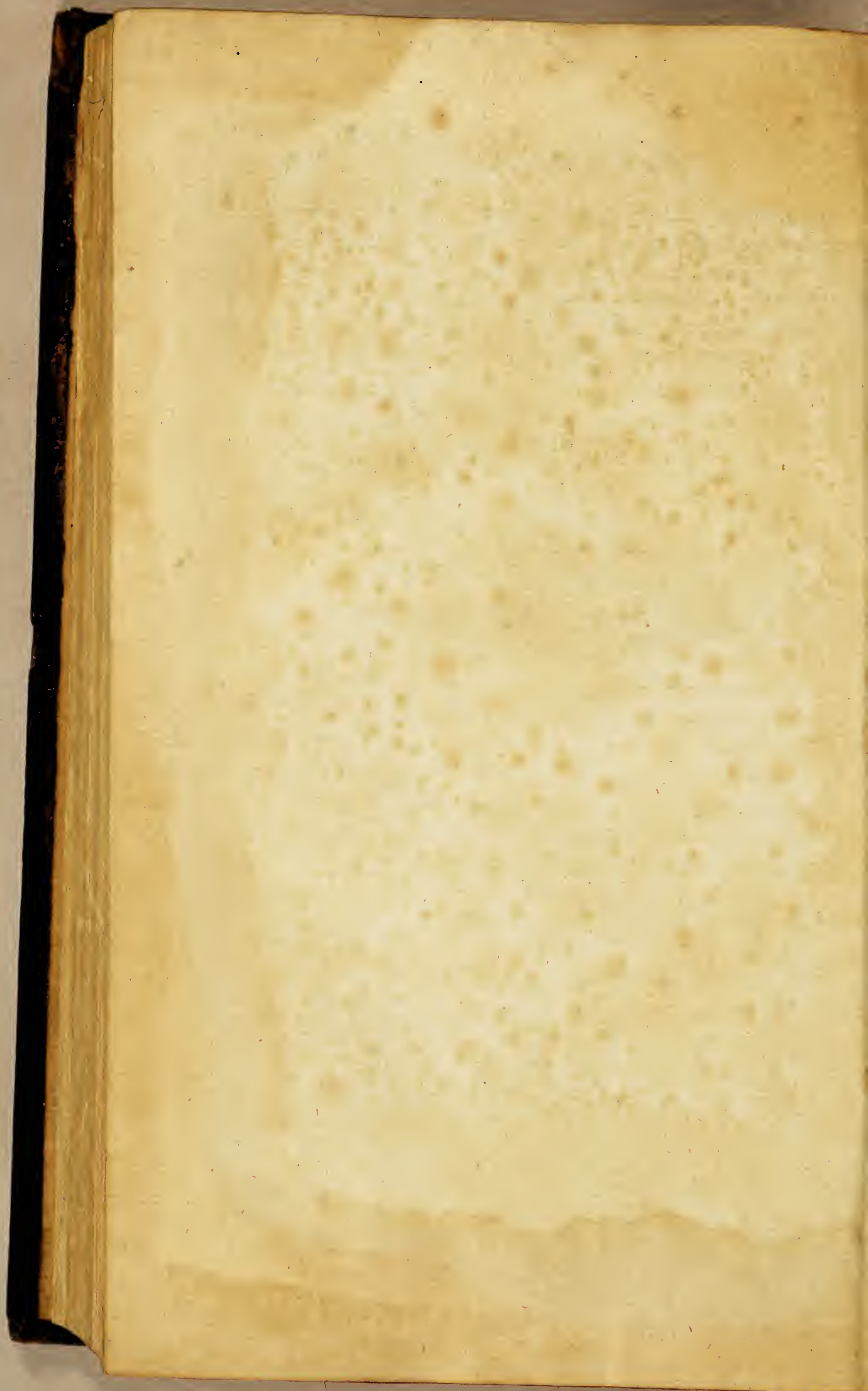
Upon the same principles, national jurisdiction extends to those things in which a nation has the right of commonry; as, the open sea, &c.

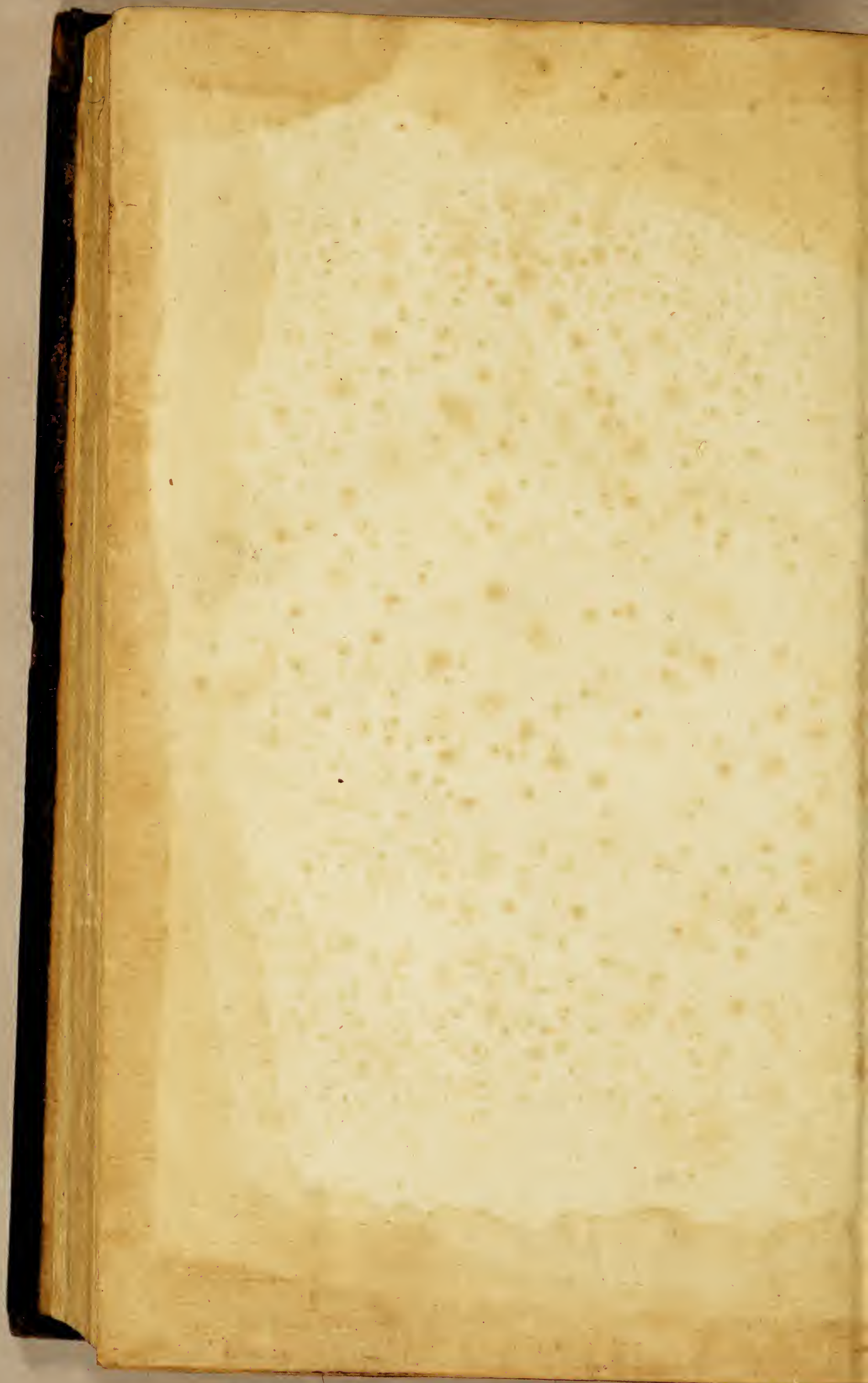
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The customary law of nations allows a maritime state jurisdiction to the distance of three leagues from shore, and over bays, rivers and harbours, where a free passage can be hindered by the batteries erected on their respective shores, or the exclusive right maintained by means of neighbouring fortifications.







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